

COMMITTEE CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for) Docket No. 00-AFC-4
Mirant Corporation's)
POTRERO POWER PLANT UNIT 7)
PROJECT)
-----)

POTRERO HILL NEIGHBORHOOD HOUSE
953 DE HARO STREET
SAN FRANCISCO, CALIFORNIA

MONDAY, AUGUST 13, 2001

6:50 P.M.

Reported by:
James Ramos
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Pernell, Presiding Member
William J. Keese, Associate Member
Stanley J. Valkosky, Hearing Officer
Ellen Townsend-Smith, Advisor
Mike Smith, Advisor

STAFF PRESENT

Marc S. Pryor, Project Manager
Dick Ratliff, Senior Staff Counsel
Bill Westerfield, Staff Counsel

PUBLIC ADVISER

Roberta Mendonca

REPRESENTING THE APPLICANT

Emilio E. Varanini, Attorney
Livingston & Mattesich

Michael J. Carroll, Attorney
Latham and Watkins

Mark Harrer, Project Director
Mirant Corporation

Dale D. Shileikis, Project Manager
URS Corporation

INTERVENORS

Alan Ramo
Our Children's Earth
Southeast Alliance for Environmental Justice

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INTERVENORS

John de Castro
Potrero Boosters Neighborhood Association

Jacqueline Minor, Deputy City Attorney
City and County of San Francisco

Anne Simon, Attorney
William B. Rostov, Attorney
Joanna Monk
Communities for a Better Environment

ALSO PRESENT

Marsha Sims

Joan Wood

Ken Cleaveland

Marie Harrison

Allison Shore

Michael Strause

Peter Walbridge

Nancey Odell

Chris Weeks

June Gutfleisch

Jackie Williams

Barbara George

Willie Ratcliff

Mike Thomas

Karen G. Pierce

I N D E X

	Page
Proceedings	1
Introductions	1,5
Opening Remarks	1
Overview - Procedure	7
Scheduling	15
CEC Staff	15
Questions by Committee	47
Intervenors	25
City and County of San Francisco	25
Potrero Boosters Neighborhood Association	38,44
Communities for a Better Environment	39
Applicant	50
Public Comment	8,68
M. Sims	8
J. Wood	68
K. Cleaveland	75
M. Harrison	77
A. Shore	82
M. Strause	86
P. Walbridge	91
N. Odell	93
C. Weeks	96
J. Gutfleisch	107

I N D E X

	Page
Public Comment - continued	
J. Williams	109
B. George	121
W. Ratcliff	131
M. Thomas	135
K. Pierce	137
J. Monk	147
Closing Remarks	148
Adjournment	149
Certificate of Reporter	150

1 P R O C E E D I N G S

2 6:50 p.m.

3 PRESIDING MEMBER PERNELL: Good evening,
4 ladies and gentlemen, and welcome to the
5 Committee's scheduled status conference. This
6 conference was noticed July 24th.

7 And before we begin I'd like to
8 introduce the dais. My name is Commissioner
9 Robert Pernell, I'm the Presiding Member over this
10 particular project. My colleague is the Chairman
11 of the Commission, Commissioner Bill Keese.

12 I have back at the table my Advisor,
13 Ellie Townsend-Smith, would you stand please.
14 There's only two over there, I'm sure you're
15 Ellie. And Chairman Keese's Advisor, Michael
16 Smith.

17 This evening we're here for two
18 purposes. First is a procedural matter which will
19 lay out the schedule for the project and all of
20 the various information that has to be in. We
21 want to have a schedule so everyone will know when
22 we're having meetings, what information has to be
23 in.

24 One of the reasons we're here is to find
25 out whether the applicant has submitted all of the

1 necessary information. And if not, when will it
2 be submitted.

3 Also any other agencies or intervenors
4 that need to submit information such as the Air
5 District, the Bay Conservation and Development
6 Commission, and any federal agencies that need to
7 submit information to the Committee. We need to
8 have that information in a timely manner.

9 This kind of information is necessary
10 for staff to complete its analysis. We've got to
11 determine how long staff needs, then we have to
12 determine how long staff needs to complete its
13 analysis. And we'll get the information in on
14 time.

15 Secondly, we know that this particular
16 project has a lot of public interest. We know
17 that. We want to accommodate you in terms of the
18 mike. We want to hear from you, but we would ask
19 that you be professional and patient with those
20 that are talking. In other words, don't
21 interrupt. Because when you get up there I don't
22 want anyone interrupting you. So this is a
23 proceeding that I'm not going to be so structured
24 that you only get two seconds and that's it. You
25 will have a chance to make your case. But I have

1 to let you know that we need to be courteous to
2 everyone, including yourselves.

3 And so I would just ask that as this
4 proceeding goes on that we listen to the
5 information, that we provide information to the
6 Committee, and I think we can move through this
7 very smoothly.

8 The gentleman that will be conducting
9 the hearing this evening is our Hearing Officer
10 Stan Valkosky. And Stan will be conducting most
11 of the hearing.

12 I want to stress that once we come up
13 with a schedule I do intend to stick to that
14 schedule. So, I'm putting everyone on notice in
15 terms of information, if you have information to
16 get to the Committee, to staff so they can do
17 their analysis, please get that in to them in a
18 timely manner.

19 At this time I would welcome any
20 comments from the Commissioner, Commissioner
21 William Keese.

22 CHAIRMAN KEESE: I have no particular
23 comments regarding the substance. We haven't
24 gotten to the substance in this case yet. We will
25 have hearings. Every issue that is presented,

1 either by staff as an issue to be dealt with, or
2 by the community as an issue that they wish to be
3 dealt with, will be dealt with.

4 As you're all aware, we are under
5 strictures from the Governor and the Legislature
6 to continue to meet the 12-month process that has
7 been our traditional process. On simpler cases we
8 are handling them in six months, some in four
9 months, some of the peaking plants we're doing in
10 21 days.

11 This is not a simple case. This one is
12 a 12-month process. We intend to look at every
13 issue. We are charged with looking at every issue
14 in as much detail as we've ever looked at it. So
15 we look forward to the process moving forward. We
16 look forward to setting a schedule here so that we
17 can move forward. And we will then deliver our
18 verdict in the 12-month period, whether that is to
19 support this project or oppose this project.

20 That recommendation by Commissioner
21 Pernell, who's handling this hearing, and myself,
22 will go to the full five-member Energy Commission
23 for their decision.

24 I'm pleased to be here and I look
25 forward to your input. Thank you.

1 PRESIDING MEMBER PERNELL: Thank you,
2 Chairman Keese.

3 Before I turn it over to the Hearing
4 Officer I'd like the applicant and the staff and
5 intervenors to introduce themselves, starting with
6 the applicant and your team, please.

7 MR. HARRER: Mark Harrer, Mirant
8 Corporation.

9 MR. CARROLL: Mike Carroll, Latham and
10 Watkins. We're outside counsel to Mirant.

11 MR. VARANINI: I'm Gene Varanini with
12 Livingston and Mattesich. We're outside counsel,
13 as well.

14 MR. SHILEIKIS: Dale Shileikis with URS
15 Corporation; environmental consultant to Mirant
16 Corporation.

17 PRESIDING MEMBER PERNELL: Thank you.
18 Staff, will you introduce your team.

19 MR. PRYOR: Thank you, Commissioner
20 Pernell. My name is Marc Pryor; I'm the Project
21 Manager on this case for the Energy Commission.
22 To my left is Bill Westerfield, Staff Counsel, and
23 to my right, Dick Ratliff; he is also Staff
24 Counsel.

25 PRESIDING MEMBER PERNELL: Thank you.

1 All right, intervenors.

2 MR. RAMO: Alan Ramo. I represent Our
3 Children's Earth and the Southeast Alliance for
4 Environmmmental Justice.

5 PRESIDING MEMBER PERNELL: Good to see
6 you, Alan.

7 Any other intervenors?

8 MS. MINOR: I'm Jackie Minor; I
9 represent the City Attorney's Office. In
10 addition, in the audience, we have several City
11 Departments represented that are playing a key
12 role. Guy Hollins with the Mayor's Office of
13 Economic Development. Where is Guy? And Greg
14 Asay who is the Staff Aide for Supervisor Sophie
15 Maxwell.

16 PRESIDING MEMBER PERNELL: Okay,
17 welcome. Thank you.

18 MS. SIMON: Thank you. Anne Simon,
19 Communities for a Better Environment.

20 MR. ROSTOV: Will Rostov, Communities
21 for a Better Environment.

22 PRESIDING MEMBER PERNELL: Thank you.
23 Any other intervenors? No other intervenors in
24 the room. Okay.

25 At this time I'd like to turn it over to

1 our Hearing Officer, Mr. Valkosky.

2 HEARING OFFICER VALKOSKY: Thank you,
3 Commissioner Pernell.

4 I'd like to start off with the
5 procedural aspects first. I have a couple of
6 preliminary things, though.

7 I'd like to make everybody aware that we
8 are being recorded by a court reporter, so when
9 addressing either as parties or later, as a member
10 of the public, it's very important that you speak
11 into the microphone. Members of the public will
12 have a chance to use this microphone up here. And
13 spell your last name so that you're identified
14 correctly on the record.

15 I'd also appreciate it, for members of
16 the public who may wish to later address the
17 Committee, to see Ms. Mendonca, the lady in the
18 blue dress, and get one of these blue cards.
19 Basically this just helps us in organizing your
20 presentations.

21 Is there anyone who has a pressing time
22 need to address the Committee at this moment,
23 rather than letting us go through our procedural
24 stuff first. Sorry, sir? Ma'am, I'm sorry,
25 ma'am?

1 Okay, is that the only one? Ma'am, did
2 you wish to address us now?

3 MS. SIMS: Beg your pardon?

4 HEARING OFFICER VALKOSKY: Did you wish
5 to address us now?

6 MS. SIMS: Yes, we only have an hour to
7 be up here, and I'm sure all you -- we only have
8 an hour to be here.

9 PRESIDING MEMBER PERNELL: Okay, you
10 need to come up to the mike and state your name
11 and spell your last name, please.

12 MS. SIMS: Hi, my name is Marsha Sims,
13 S-i-m-s, Sims. I'm a 30-year resident here in
14 Potrero Hill public housing. I also am Senior
15 Substance Abuse Specialist. I also am community
16 advocate. I also am counselor for Omega Boys Club
17 to Stop the Violence Division inside Juvenile
18 Hall.

19 First of all I'd like to say, being in
20 this community for 30 years, I love where I live,
21 I love life, as we stated last time. I have a
22 brand new granddaughter who is four weeks old now
23 who I want to see be able to survive here in our
24 community and grow strong, just like any kids
25 anywhere else, any other children.

1 They deserve the right to breathe clean
2 air. No toxic fumes. We have enough toxic fumes
3 coming our way between highway 101 and 280. We do
4 not deserve this type of treatment, pulling the
5 wool over our eyes, sliding these people in with
6 this toxic stuff. Something bigger, some sort of
7 monstrosity bigger than we ever seen before. We
8 do not deserve this.

9 And I'm going to tell you something. I
10 don't know if it will touch your heart enough, but
11 I hope you feel it in your soul to understand
12 where I'm coming from.

13 I took care of my mother for six months
14 here in Potrero Hill. Died from a rare form of
15 cancer. Cancer that we never had in our family
16 before. My brother died at 34 years old in 1989.
17 Also residents here on Potrero Hill. My
18 grandparents, from living over in Westpoint. We
19 have enough toxic waste around us that is killing
20 us.

21 At my house, as we speak right now, at
22 1843 25th Street lies my only sister who is lying
23 on my couch right now, had her breast removed, and
24 is terminal from breast cancer. And the reason
25 why we know that she's terminal because they told

1 us she's terminal. Where her breast is removed
2 just developed another lump, where the breast is
3 gone. And it's getting so big it's almost looking
4 like her breast.

5 I mean this is some weird stuff. You
6 guys want to come into our community; come way
7 across country to put a monstrosity. And we have
8 kids over here that I hear these young mothers
9 say, my baby was born with asthma, in my
10 community. No, your baby did not have asthma in
11 your stomach. Your baby got asthma after you
12 brought him back to this toxic waste.

13 We have little children down here can't
14 have breathe. Have you checked the statistics at
15 the clinic here in Potrero Hill? How many little
16 kids in our community have asthma, bronchitis,
17 little sores in their head, and the doctors don't
18 know where these little sores are coming from.

19 This is devastating. The devastating
20 part to me personally is losing my entire family
21 like a domino effect. Like how you just knock
22 down one domino and your whole family is gone. My
23 family is gone. My mother, my father died from
24 kidney cancer. He was also a resident here at
25 Potrero Hill.

1 So, since we're dying anyway, when you
2 going to throw the dirt on me. Since we're here
3 dying anyway, since we're here can't breathe
4 anyway, every kid I know on Potrero Hill, Mr.
5 Pernell, has a breathing apparatus or a nebulizer
6 or has these little asthma inhalers. You know
7 what I'm talking about, I'm sure some of you has
8 smoked cigarettes long enough you have one, too.

9 So, now we -- you smoking cigarettes,
10 why you want to come over here to Potrero Hill and
11 give us this thing. We don't need it. I'm here
12 on this day at this time, you can put me on record
13 if you want to, but you probably won't. You
14 probably say she's not -- she doesn't make a
15 difference, she's not relevant to this case.

16 But, oh, yes, I am. Because like I say,
17 I live here.

18 PRESIDING MEMBER PERNELL: Ma'am, you
19 are on record.

20 MS. SIMS: Thank you very much. I
21 appreciate that. It makes me feel good that
22 somebody is concerned enough to come down in my
23 community and really feel what we saying; really
24 feel how we feel. We don't need this, honey, we
25 just don't need it. We not only don't need it, we

1 don't want it.

2 Mirant, put it in Marin. Mirant, put it
3 in Sausalito. Put it up there in Pacific Heights.
4 Put it in Twin Peaks. Don't give it to us. We're
5 a little bitty community --

6 (Applause.)

7 MS. SIMS: -- we don't want it. The
8 sewer system here, the sewer system down here, the
9 big old sewer plants down here. I know that
10 they're not covered up on the top. That's why we
11 smell when we go through there, we smell it so
12 bad.

13 Don't you know it's after 6:00 when
14 everybody's home from work; they home flushing
15 their toilets, honey. And you can smell that
16 stuff when you pass by. It's terrible.

17 What about the sewer plant out there on
18 Bay Street. I bet you that big round septic tank
19 is covered up.

20 Over here, these are not. We're getting
21 all this waste from the shipyard. What else can
22 you give us? Your dropping a damn atomic bomb on
23 us. I told you I'm senior substance abuse
24 specialist. I'm making a dent in my community.

25 I'm getting ready to go, Mr. Pernell,

1 because I feel you. I want you to feel me. We
2 are making a difference. We're getting better.
3 We are growing. We are a changed community.
4 We're coming alive.

5 No longer are we going to sit down and
6 just let you bring us anything and just give us
7 anything.

8 But now I done spoke my piece. And I
9 pray to God you hear me. Otherwise you got to
10 deal with another god, you don't --

11 (Applause.)

12 MS. SIMS: -- deal with me, baby, you
13 deal with a higher authority. And this is not
14 fair. Let's be fair about it. If I die and go
15 tomorrow you better think about our future, which
16 are our children.

17 (Applause.)

18 PRESIDING MEMBER PERNELL: Okay, excuse
19 me. I'm going to have to ask that we not do
20 applauses or boos. Again, this is a hearing, and
21 we want everybody to be heard, and we're going to
22 sit here and listen. So, we're not coming down
23 with deaf ears. And none of this is a done deal.
24 All we're doing is gathering facts. So we have to
25 do that.

1 Okay, Mr. Valkosky.

2 HEARING OFFICER VALKOSKY: Thank you.

3 At this time I'd like to turn to the scheduling
4 matters. And as Commissioner Pernell alluded to
5 earlier, I'm going to ask each of the parties to
6 address, in turn, starting with staff and going
7 through the intervenors and then getting
8 applicant's response at the end.

9 As what additional information is
10 needed. When that information is going to be
11 available. What that information is. And
12 finally, from staff, when they anticipate being
13 able to produce their final staff assessment.

14 For those of you who may not be familiar
15 with our proceedings, the final staff assessment
16 is a key document because that is the first time
17 that anyone will be aware of what staff's position
18 on the project is.

19 And I want to emphasize a couple things.
20 One, believe the Committee expects a complete
21 staff assessment, one that addresses all of the
22 relevant issues.

23 And, two, the staff assessment is
24 important because staff functions as an
25 independent party, acting on behalf of the public

1 interests. So, from the Committee's perspective,
2 what the final staff assessment is, is hopefully a
3 complete and unbiased evaluation of the
4 applicant's proposal.

5 So, with that as a forward, Mr. Pryor.

6 MR. PRYOR: Thank you, Mr. Valkosky.
7 Roberta, the Public Adviser is handing out --
8 Roberta, would you make sure that the applicant
9 and the other intervenors get a copy of that?
10 Okay.

11 What I've handed out is staff's list of
12 what we believe is still required for us to do our
13 final staff assessment. At the last status report
14 we told the Committee that we expected to file the
15 final staff assessment September 28th. We're
16 revising that to October 31st because of three
17 schedule issues.

18 First, the issuance of the final
19 determination of compliance.

20 (Off-the-record conversations.)

21 HEARING OFFICER VALKOSKY: Okay, off the
22 record.

23 (Off the record.)

24 HEARING OFFICER VALKOSKY: Back on the
25 record. Mr. Pryor, continue.

1 MR. PRYOR: Thank you. At our last
2 status report to the Committee staff reported that
3 we expected to file our final staff assessment on
4 September 28th. We are now revising that to
5 October 31st, based upon three scheduling issues.

6 First is the issuance of the final
7 determination of compliance that will be from the
8 Air District.

9 Two, the applicant's study of
10 alternatives to proposed use of Bay waters for
11 power plant cooling.

12 And three, the Bay Conservation and
13 Development Commission's report to the Energy
14 Commission.

15 Staff expects to inform the Committee by
16 September 14 whether the October 31st issuance
17 date of the FSA will be attainable, or whether
18 more time will be necessary, and why.

19 First issue, the final determination of
20 compliance. The Bay Area Air Quality Management
21 District issued its preliminary determination of
22 compliance to staff on February 27, 2001. But it
23 has not issued its final determination of
24 compliance. As of Friday District Staff had not
25 provided our staff at the Energy Commission with

1 an expected date for the issuance of the final
2 determination of compliance.

3 Staff will need at least four weeks from
4 the time the applicant -- it's the applicant's
5 responsibility -- files the FDOC with the Energy
6 Commission to study and incorporate into our final
7 staff assessment.

8 If the final determination of compliance
9 is issued by the end of September, the October 31
10 date would stand. Otherwise, more time may be
11 needed.

12 Second issue, once-through cooling
13 alternatives. Staff's fifth set of data requests
14 included, but was not limited to requests for
15 information from the applicant on alternatives to
16 the proposed once-through cooling using Bay
17 waters.

18 The alternatives are the use of
19 reclaimed water from the City's wastewater
20 treatment plant, and the use of dry cooling
21 technology.

22 Staff understands that the applicant
23 expects to file the responses, all of them,
24 September 6th. Staff is also pursuing its own
25 analysis of alternatives to once-through cooling.

1 The BCDC report. As background, BCDC is
2 required to submit to the Energy Commission its
3 report on the project. One month has been added
4 recently to the date of the final decision in
5 order to allow BCDC to prepare and submit its
6 report on this project. For note, there have
7 already been two months extended in this case that
8 were agreed to by the applicant in the spring.

9 BCDC expects to provide the report after
10 its meeting on September 6th. The staff would
11 expect to receive the report within a week. It
12 would take about three to five days for me to
13 disseminate that to our staff and our Aspen
14 contractors.

15 BCDC Staff has informed our staff that
16 the following information has not been supplied by
17 the applicant. Without the information staff
18 cannot prepare a report to its Commission for
19 approval in forwarding to the Energy Commission.

20 Lack of the information may result in a two-
21 to four-week delay at this point.

22 The information needed is: Information
23 on water quality, Regional Water Quality Control
24 Board's national pollution discharge elimination
25 system permit - NPDES, and the section 401

1 certification. Both are expected late this month,
2 August.

3 Alternatives analysis. The applicant is
4 supposed to provide an outline of alternatives to
5 Bay fill, such as reclaimed water alternatives.
6 And BCDC's definition of fill is very broad and
7 includes structures, such as the proposed intake
8 and discharge structures.

9 Second item on alternatives. Other
10 power plant cooling alternatives such as dry
11 cooling. BCDC's Staff was expecting these by mid
12 August, and is very concerned that the applicant
13 does not plan to submit the same or similar
14 analyses to the Energy Commission until September
15 6th. What the differences between the two would
16 be is unknown to us, or to BCDC.

17 Third item, public access. The
18 applicant has not provided BCDC with a plan that
19 would provide for the maximum feasible public
20 access. Additional discussion between the
21 applicant and BCDC Staff, not us, is expected to
22 take place this week. The BCDC Staff does not
23 know when the plan will be submitted.

24 The fourth and last mitigation for fill.
25 No progress has been made with the applicant

1 regarding mitigation for both biological and water
2 resources mitigation. This issue will be
3 addressed, I am told, at the meeting this week
4 between BCDC Staff and Mirant.

5 Staff recommends that the BCDC's report
6 be considered in the FSA, rather than responding
7 to the report during the hearing process. If the
8 applicant can provide the information by early
9 September BCDC may be able to make a decision on
10 its report to the Energy Commission by late or
11 early October, that is -- this is not written well
12 and I'm sorry -- that is if they miss the
13 September 6 date.

14 Nonetheless, if the report is forwarded
15 to us by early October we believe that the 31
16 October date will still stand. This will provide
17 us, even then, opportunity for our two staffs to
18 meet and discuss any situations, any questions to
19 clarify.

20 I propose, or I have an anticipated
21 schedule. As noted, some delays may be
22 experienced that would perhaps extend the
23 schedule.

24 First Regional Board draft NPDES permit
25 and section 401 letter. The BCDC needs a letter

1 from the Regional Board. We expect that the week
2 of August 20.

3 Data responses filed by Mirant September
4 6th. BCDC report to Energy Commission week of
5 September 10th. Applicant files FDOC by late
6 September. And FSA issued October 31st.

7 PRESIDING MEMBER PERNELL: I have a
8 couple questions. Is anyone from the Air District
9 here? Is the Air District represented at all?
10 What about BCDC?

11 MR. PRYOR: Leslie Lako from BCDC Staff
12 could not make it tonight, sir.

13 PRESIDING MEMBER PERNELL: Okay. I just
14 want to make one point. As staff has laid out a
15 schedule, and if you don't make it the whole thing
16 might be extended. That's not going to be the
17 case. Everybody will have time to get their
18 information in. We expect it to be in. This is a
19 procedure, we want to get to the end, and you
20 don't want to keep coming out here five years down
21 the road.

22 So what we want is the information in
23 from BCDC, the City, the Air District and all of
24 those folks that are being paid to get these
25 analyses to us need to do that in a timely manner.

1 CHAIRMAN KEESE: I have a question
2 regarding the FDOC. Do we expect a change in the
3 document?

4 MR. PRYOR: Yes, we expect a change
5 between the PDOC and the final, yes, sir.

6 CHAIRMAN KEESE: And we expect it to be
7 significant?

8 MR. PRYOR: Yes, sir.

9 CHAIRMAN KEESE: When, in the normal
10 course of events, would we have received this
11 FDOC?

12 MR. PRYOR: The PDOC goes out for a 30-
13 day comment period, and usually within a month we
14 have the final.

15 CHAIRMAN KEESE: And the PDOC went out
16 in February?

17 MR. PRYOR: We received it and docketed
18 it on February 27th.

19 CHAIRMAN KEESE: And have we had any
20 particularly good reasons for that delay?

21 MR. PRYOR: The Air District has not
22 provided us with reasons for that. There was some
23 speculation, and I don't want to say that.

24 CHAIRMAN KEESE: Okay. Well, I'm aware
25 that we are under pressure to stick with our time

1 and schedules. And I'm equally aware that the
2 Districts have been instructed to attempt to stick
3 with their schedules, so I find that somewhat
4 troubling.

5 Obviously, if the input to us does not
6 come in in a timely manner, it's very difficult
7 for us to maintain our schedules. I recognize
8 that. I think we may have to do something about
9 that.

10 MR. PRYOR: May I say something, sir?

11 CHAIRMAN KEESE: Sure.

12 MR. PRYOR: Mr. Westerfield just gave me
13 a note. You had a conversation with the District?

14 MR. WESTERFIELD: Yes, I had a
15 conversation with District Counsel today.

16 CHAIRMAN KEESE: State your name for
17 the --

18 MR. WESTERFIELD: Yes, Bill Westerfield,
19 staff of the Energy Commission, attorney staff.

20 I had a conversation this morning with
21 Assistant Counsel for the Bay Area Air Quality
22 Management District. And I was told that the
23 District is awaiting a certification of compliance
24 by the applicant, Mirant, that it is complying
25 with all laws with reference to its facilities in

1 the State of California.

2 And then once it receives that it will
3 be sending in the -- or issuing the FDOC.

4 CHAIRMAN KEESE: Well, I'm sure that I'd
5 like to hear the applicant's response to that.
6 But is this a normal procedure?

7 MR. RATLIFF: Dick Ratliff from staff.
8 It has occurred in other cases. I think you're
9 aware that it has held up -- the notice of
10 violation issue has occurred in other siting
11 cases, and so it's not unusual that they would be
12 doing that.

13 PRESIDING MEMBER PERNELL: And this is a
14 notice of violation in other areas?

15 MR. RATLIFF: Yes, in other totally
16 independent of this case. It has nothing to do
17 with this case.

18 CHAIRMAN KEESE: It sounds like it was
19 an inquiry as to whether there were other
20 violations, is that --

21 MR. RATLIFF: Yes.

22 CHAIRMAN KEESE: And until they get an
23 answer to that inquiry they're just holding up
24 theirs?

25 MR. RATLIFF: As I understand what Bill

1 said, yes.

2 CHAIRMAN KEESE: Thank you.

3 PRESIDING MEMBER PERNELL: As a
4 procedural matter we want everybody to go through
5 their presentations, and then you'll be allowed to
6 ask questions. Sorry I didn't announce that
7 earlier.

8 HEARING OFFICER VALKOSKY: Mr. Ramo, do
9 you have anything to add in the nature of the
10 material we're discussing?

11 MR. RAMO: Well, actually the
12 intervenors have discussed the status conference
13 and we tried to put our comments together to be
14 most efficient. So, I'm going to defer to CBE's
15 counsel to present our view on that.

16 HEARING OFFICER VALKOSKY: Okay, thank
17 you, appreciate the economy.

18 Ms. Minor, does the City have anything?

19 MS. MINOR: We actually do have some
20 comments. In preparation for tonight's meeting we
21 compiled a document. And I certainly don't have
22 enough copies for everyone in the room, but made
23 an attempt to have sufficient copies for everyone
24 at the table. Shall I pass them?

25 PRESIDING MEMBER PERNELL: Roberta will

1 assist you in passing those out, as you continue
2 your presentation.

3 MS. MINOR: I think initially this
4 evening I'd like to say that the City certainly
5 appreciates the effort that the staff has put into
6 preparing for tonight, and going through the PSA,
7 as well as the follow-up discussions, to create
8 its list of issues and concerns.

9 In addition, in our document which we
10 prepared for tonight, which I don't intend to
11 read, we tried to categorize what we believe to be
12 missing data, incorrect data, issues that are
13 important for the City. As you know the City has
14 not, as of yet, taken a position on this project.
15 And then finally, interagency, interdepartment
16 coordination that's essential for this project to
17 go forward.

18 The staff previously has captured much
19 of what we've included in our document. I would
20 like to emphasize a couple of additional things.

21 The first is that at the end of May the
22 Board of Supervisors in San Francisco enacted what
23 we call the Maxwell ordinance. It was introduced
24 and authored by Supervisor Sophie Maxwell, in
25 whose district this project is proposed.

1 This ordinance, which has been docketed
2 in this matter, sets forth what we call the
3 minimum standards that the City expects to see in
4 order for the City to support this project.

5 These standards, I believe that there
6 are nine specific aspects, and they're appended in
7 a summary way to our document we filed tonight,
8 but this ordinance looks specifically at public
9 health and air quality issues that we think are
10 important.

11 They include an overall reduction in
12 pollutants in southeast San Francisco, and very
13 importantly includes a requirement that the
14 Hunter's Point plant be shut down.

15 We understand obviously that Mirant is
16 not a party to the existing agreement that
17 requires the shutdown of Hunter's Point. However,
18 that issue is so important for the City that we
19 must see significant movement and an enforceable
20 agreement for the shutdown of Hunter's Point
21 before we can proceed to look more specifically at
22 the City supporting this project.

23 In addition, we have started some
24 preliminary work with all the parties and the Air
25 District in looking more specifically at the

1 public health effects. Those conversations need
2 to continue so that we can come up with a plan
3 that is more expansive than the proposal in the
4 PSA, which is essentially \$1 million being set
5 aside for retrofit of school buses and other
6 diesel vehicles, mobile sources of PM10 in the
7 Potrero/Bayview area.

8 We also think that it's important for
9 the staff -- this is an issue that is not
10 addressed by the staff -- we think it's also
11 important for the staff, in dealing with the
12 Potrero/BayView community, for the issues related
13 to social economics and environmental justice to
14 be looked at again.

15 There was a workshop several weeks ago
16 now where again the staff came back to the
17 community on the environmental justice area. We
18 think that this area has not been dealt with in a
19 comprehensive fashion, and in fact, we have an
20 anomaly whereby you have an environmental justice
21 population within one mile, two miles, three
22 miles, four miles, five miles, six miles of this
23 plant. But there is no acknowledgement, as of
24 yet, on the part of the CEC Staff that that
25 environmental justice population requires and

1 demands mitigations to mitigate the impact of the
2 expansion of this plant.

3 Another issue, again discussed in our
4 comments, are the agreements that are required
5 with the San Francisco Port. And these agreements
6 are critical for site control. The plant, the
7 project, the way it's currently designed, requires
8 that Mirant have an agreement with the Port.

9 Those discussions have begun. I
10 contacted the Port this afternoon to get an update
11 so I could provide that to you this evening. And
12 so, preliminary discussions have begun, but those
13 discussions have not moved very far.

14 And, again, under our Maxwell ordinance,
15 one of the requirements is that the agreement that
16 is ultimately worked out with the Port and Mirant
17 will have to go back to the Board of Supervisors
18 of San Francisco for approval. So that there will
19 be a two-part, public process: Approval by the
20 Port Commission, which is a public body, which
21 must comply with the Brown Act; and then again,
22 approval by the San Francisco Board of
23 Supervisors.

24 And I guess the final issue that I would
25 like to again address, although Marc Pryor, in the

1 staff's presentation, did cover this, there is
2 insufficient information on Bay impacts.

3 The City and our constituents are very
4 concerned about the impact that this project is
5 going to have on the Bay. We can't comment on
6 those impacts until more analysis and evaluation
7 has been done by the staff, but also by BCDC, the
8 Water Quality Control Board, and also, very
9 important for us, looking at potential
10 alternatives to the wet cooling system that has
11 been proposed by Mirant.

12 We came here tonight to urge that the
13 Commission set a date certain by which Mirant must
14 have in all the required information so that this
15 project can move ahead.

16 I am pleased that -- I said the project
17 can move ahead, obviously I mean the process can
18 move ahead -- and I'm pleased to see that the
19 staff acknowledges that there's a significant
20 amount of information that is still missing that
21 we all must have in order to be able to evaluate
22 this project.

23 HEARING OFFICER VALKOSKY: Thank you,
24 Ms. Minor.

25 PRESIDING MEMBER PERNELL: I have just a

1 couple questions for you. On the timeframe
2 between the San Francisco Port, the BCDC and the
3 Board of Supervisors, do you have any sense of if
4 everything, quote-unquote, was in line, and that
5 process started, how long do you think it would
6 take? Just judging by what I know about the Board
7 of Supervisors, they meet, at least in Sacramento,
8 once a month, or twice a month, depending upon the
9 issues.

10 Is there a way in which if there's a
11 resolution that they can have an emergency
12 meeting? Or just give me your sense of the timing
13 on those.

14 We're talking about three, and possibly
15 the Air District, so we're talking about three or
16 four different agencies, all have different
17 scheduled and meet at different times.

18 So I'm trying to get a sense of even if
19 there is an agreement, whether or not, how much
20 time would that take to get through the process?

21 MS. MINOR: Well, the San Francisco
22 Board of Supervisors meets weekly.

23 PRESIDING MEMBER PERNELL: So that's --

24 MS. MINOR: And so we don't believe that
25 that would be an impediment to moving this process

1 forward.

2 The San Francisco Board of Supervisors,
3 having enacted the Maxwell ordinance, certainly
4 will expect to see significant compliance with the
5 Maxwell ordinance when the agreement with the Port
6 comes back to the Board of Supervisors for
7 approval.

8 And so our ability to move this process
9 through the legislative process of the City and
10 County of San Francisco is really going to be
11 dependent upon whether or not we've been able to
12 work with the applicant in meeting the
13 requirements of the Maxwell ordinance.

14 We still believe that we can do that.
15 We look forward to more opportunities to sit down
16 with Mirant to get that process started. But, the
17 Board of Supervisors' approval is really going to
18 be dependent upon whether or not the community
19 needs, as reflected in the ordinance, have been
20 met.

21 PRESIDING MEMBER PERNELL: Right And
22 then what about BCDC? Is that a similar
23 situation? They have to do a recommendation, as I
24 understand this, they have to do a recommendation
25 to the Board of Supervisors?

1 MS. MINOR: No, it doesn't --

2 PRESIDING MEMBER PERNELL: Oh, they
3 don't, okay, then that's --

4 MS. MINOR: -- and actually I don't, I
5 don't even know how frequently BCDC --

6 PRESIDING MEMBER PERNELL: -- that's
7 fine, I don't want to complicate the process.

8 MS. MINOR: -- meets.

9 PRESIDING MEMBER PERNELL: I'm just
10 trying to understand it.

11 MS. MINOR: The City will look very
12 carefully at the recommendations and any proposed
13 mitigations that come from BCDC, come from the
14 Regional Water Quality Control Board, come from
15 the Air District. And we do have two members of
16 our Board of Supervisors who sit on the Air
17 District.

18 But, the regional and the state bodies
19 will have acted before this matter, the matter at
20 least of a Port agreement, gets to the San
21 Francisco Board of Supervisors.

22 PRESIDING MEMBER PERNELL: Okay. Thank
23 you.

24 HEARING OFFICER VALKOSKY: Ms. Minor,
25 for my benefit, could you just give me a capsule

1 of the process the applicant will have to follow
2 with the Port Commission? I mean is that
3 something that will be a negotiated agreement, and
4 then validated in public? Or is it a public
5 process or --

6 MS. MINOR: There is a team of people
7 who are with the Port. It includes the Port's
8 director of development, one other manager with
9 the Port, and two representatives from the City
10 attorney's office that apparently started meeting
11 with representatives of Mirant and Mirant's
12 counsel.

13 They will work through and negotiate an
14 agreement. That agreement must be approved by the
15 Port Commission which is a commission appointed by
16 the Mayor. It's a five-member body. The Port
17 Commission, as a legislative policy body, is
18 subject to the Brown Act. And so its meetings are
19 agendized and the public may come in and
20 participate. And input from the public is
21 solicited.

22 There is a final vote and decision after
23 an agenda is prepared and posted by the Port
24 Commission. And then once the Port Commission has
25 approved the agreement, the agreement then moves

1 over to the San Francisco Board of Supervisors.
2 Can either be assigned by the Board of Supervisors
3 to a committee where hearings will be held. Or
4 the Board of Supervisors can take it up as a
5 Committee of the whole, in which case the entire
6 Board of Supervisors hears the public comments on
7 the agreement.

8 HEARING OFFICER VALKOSKY: Is there a
9 specific time that the Port Commission meets? Is
10 it regular meetings, or is it meetings as needed?

11 MS. MINOR: No. They have regularly
12 scheduled meetings, and, Guy, -- pardon me? Every
13 two weeks.

14 HEARING OFFICER VALKOSKY: So every two
15 weeks then --

16 MS. MINOR: And certainly can call
17 special meetings, as those meetings are required.

18 HEARING OFFICER VALKOSKY: Thank you
19 very much.

20 CHAIRMAN KEESE: I have one question.
21 I'm sure we're going to hear more about the
22 shutdown of the Hunter's Point plant, but did I
23 gather from your testimony and what I'm reading in
24 front of me, that San Francisco entered into an
25 agreement with PG&E on the shutdown of the plant,

1 which is not enforceable?

2 MS. MINOR: The condition of the
3 shutdown is that the Independent System Operator
4 deem that there is sufficient reliability without
5 that plant. And that has not occurred.

6 CHAIRMAN KEESE: All right, so it is an
7 enforceable contract --

8 MS. MINOR: So the interim step is for
9 ISO --

10 CHAIRMAN KEESE: -- but the --

11 MS. MINOR: But the condition for --

12 CHAIRMAN KEESE: -- condition that would
13 make it -- would allow its enforcement has not
14 occurred yet in the mind of the ISO?

15 MS. MINOR: That's correct.

16 CHAIRMAN KEESE: And you're saying until
17 the ISO makes that determination and Hunter's
18 Point is shut down you're not going to make a
19 decision? Or what?

20 MS. MINOR: Well, yes, actually we are
21 saying that. But we say that subject to the fact
22 that the City is actively talking to ISO about
23 what it expects to see and needs to see in place
24 in terms of electric reliability in the City in
25 order to agree to the shutdown of Hunter's Point.

1 CHAIRMAN KEESE: Right, and this is a
2 common theme. One of the great benefits of new
3 power plants statewide is that we're going to shut
4 down the old polluting power plants.

5 But until we have enough of the new we
6 can't shut down the old. And I get confused with
7 this language which said you do have an
8 enforceable agreement, it just hasn't been
9 enforced because the operative condition hasn't
10 occurred.

11 Are you saying the operative condition
12 has to occur before San Francisco is going to go
13 along with this? Or do you need a more defined
14 term?

15 MS. MINOR: We don't believe that it is
16 completely linear. It's an integrated process.
17 As you will hear more of through this process, one
18 of the key components for the Independent System
19 Operator is the negotiation of an RMR contract
20 with Mirant, or some other type of contract that's
21 like an RMR contract with Mirant.

22 So although the agreement for the
23 shutdown of Hunter's Point is between the City and
24 PG&E, there are many parties that play a role in
25 finally determining whether or not that shutdown

1 is going to occur.

2 In the last correspondence with the
3 City, which is just a week and a half ago, on this
4 topic, ISO again reiterated to the City that
5 negotiating an RMR contract on the new proposed
6 unit 7 with Mirant was critical.

7 And so Mirant needs to be at the table
8 with the City, with ISO, and with other parties in
9 order to achieve this objective.

10 CHAIRMAN KEESE: Thank you, I think that
11 gives me a better understanding. I do want to
12 emphasize that one of the strongest reasons that
13 we're for modern efficient power plants is because
14 they will inevitably shut down the really
15 polluting power plants, and that is a very high
16 priority of ours.

17 PRESIDING MEMBER PERNELL: Thank you.

18 MR. de CASTRO: I'm John de Castro, I'm
19 with Potrero Boosters. I was late to the meeting.
20 My comment, though, was all the documentation we
21 have seen about Hunter's Point has said from the
22 ISO, keeps talking about 2006 as the first date
23 that they're willing to even consider letting
24 Hunter's Point go offline.

25 HEARING OFFICER VALKOSKY: Right,

1 Mr. de Castro, we're not here to debate that point
2 at this time. I think, you know, the Committee's
3 aware of it. And what we're trying to do is
4 identify the information that is needed so the
5 Committee can basically establish a date for the
6 applicant to get all the information in and a date
7 for the staff to do an assessment.

8 MR. de CASTRO: This is the first time
9 I've been through this process.

10 HEARING OFFICER VALKOSKY: I understand.

11 MR. de CASTRO: Hopefully the last.

12 HEARING OFFICER VALKOSKY: Ms. Simon.

13 MS. SIMON: Thank you. I would like to
14 make only a couple of comments in addition to the
15 comprehensive list that has been supplied by the
16 City.

17 CBE would like to raise, in relation to
18 actions by other agencies, the question whether
19 the final staff assessment should await the
20 Regional Water Board's final issuance of the NPDES
21 permit, and not as the staff's proposed schedule
22 has it, rely on the draft permit that is coming
23 out of the staff of the Regional Board presumably
24 by the end of this month.

25 The Regional Water Quality Control Board

1 has an extensive public comment process for draft
2 permits. It is quite possible that the staff's
3 analysis may change as the result of the public
4 comment, and as the result of additional
5 information that the applicant may choose to
6 supply.

7 And it seems to CBE that it would be
8 better for the staff, better for the Committee,
9 better for the other parties to have the full
10 information from the Regional Water Board
11 available for the final staff assessment rather
12 than have the final staff assessment analysis
13 completed before the final analysis of the
14 Regional Water Board is completed.

15 PRESIDING MEMBER PERNELL: Ms. Simon,
16 let me stop you there and ask a question. Do you
17 know whether or not the Regional Water Board is
18 doing any work on this case?

19 MS. SIMON: We have heard, as Mr. Pryor
20 has heard, that the formal draft permit is going
21 to be released for public comment at the end of
22 this month.

23 Other staff members at Communities for a
24 Better Environment and in other organizations have
25 spoken to the staff person who is responsible

1 there, and she has an advanced working draft of
2 the formal draft permit that is being finalized as
3 a draft.

4 PRESIDING MEMBER PERNELL: Is there
5 anyone here from the Regional Water Board? Okay.
6 Please continue, I'm sorry.

7 MS. SIMON: All right. Thank you. Our
8 second point about -- actually, I have three
9 points, I apologize -- about other agencies is
10 that unless we have missed it, the California Fish
11 and Game Department had identified a number of
12 issues at the staff workshops on the preliminary
13 staff assessment on which it intended to comment.

14 We, at any rate, have not seen those
15 comments. And if they have not been submitted I
16 would wish to add them to the staff's list of
17 outstanding agency actions.

18 The third point about other agencies I
19 would like to make is to follow up, Commissioner
20 Pernell, on the earlier discussion about the Air
21 District and the final determination of
22 compliance.

23 Air District rule 2-2-307 requires the
24 District to be satisfied when it issues its
25 authority to construct to an applicant, that the

1 applicant is in compliance with all relevant state
2 and federal emissions standards.

3 So it seems to us to make sense that the
4 District would not wish to give the Commission a
5 determination of compliance that was not in
6 conformity with its own regulations for actually
7 issuing a permit. So that what the Commission
8 Staff has said here tonight about the District
9 Staff waiting on the certification of compliance
10 seems to make sense to us based on the District's
11 own regulations.

12 Finally, I would like to identify some
13 documents from the applicant that had been
14 identified at the preliminary staff assessment
15 workshops that I have not identified as having
16 been filed. But the staff may have them. And I
17 wanted to be sure they were on the table for this
18 discussion.

19 They all relate to Bay impacts, which,
20 as Ms. Minor has said, are very important, I
21 believe, to all of us.

22 One is that there was a discussion at
23 the preliminary staff assessment workshops about
24 revised thermal plume modeling to be supplied by
25 the applicant.

1 The second is that the staff identified
2 an entrainment study to be supplied by the
3 applicant.

4 And the third was that the staff was
5 either expecting or soliciting, I was not sure
6 which, in the context, comments from the applicant
7 on a cleanup plan for contaminated sediment in the
8 area of the work in the Bay for the project.

9 HEARING OFFICER VALKOSKY: So your basic
10 inquiry is whether these materials have, in fact,
11 been submitted, and you just didn't get a copy or
12 whatever?

13 MS. SIMON: Yes. And if they have not,
14 in fact, been submitted, that may have an impact
15 on whether the staff's proposed date is realistic.
16 And certainly when the Committee sets a date for
17 the submission of all documents by Mirant, we'd
18 want to be sure we knew what all those were.

19 HEARING OFFICER VALKOSKY: All right.
20 Do you have anything else?

21 MS. SIMON: No, thank you.

22 HEARING OFFICER VALKOSKY: Okay.

23 PRESIDING MEMBER PERNELL: Thank you.

24 HEARING OFFICER VALKOSKY: Okay, and
25 before we turn to applicant, I want to say that I

1 do want staff to respond to some of the issues
2 raised by Ms. Simon, but I'd like to see if Mr. de
3 Castro has anything to add first. Sir?

4 MR. de CASTRO: I just had a couple of
5 quick comments for the Potrero --

6 PRESIDING MEMBER PERNELL: State your
7 name, please.

8 MR. de CASTRO: John de Castro, Potrero
9 Boosters Neighborhood Association. We are the
10 oldest neighborhood association in the Potrero
11 Hill area. We've been around for 75 years. We
12 are very well established in this community.

13 First of all, we were one of the authors
14 of the -- helping develop the Maxwell ordinance.
15 So we very strongly support what is said in the
16 Maxwell ordinance.

17 Second of all, I don't know if you're
18 aware of it, but the planning department -- the
19 planning commission, just last week designated the
20 area between 22nd and 25th Street as suitable for
21 housing. I don't know whether they're planning
22 power plant view condominiums or what there, but
23 it doesn't seem like a good place to build
24 housing. But the San Francisco Planning
25 Commission just voted that as a policy of the

1 Planning Commission last Thursday.

2 PRESIDING MEMBER PERNELL: And that has
3 to go before the Supervisors, or does the --

4 MR. de CASTRO: No, it does not.

5 PRESIDING MEMBER PERNELL: -- Planning
6 Commission make those type of decisions?

7 MS. SIMS: The Planning Commission can
8 make their own policy statement.

9 PRESIDING MEMBER PERNELL: No,
10 statement. I'm talking about law.

11 MR. de CASTRO: What happened was --
12 just to give you a quick background, there was an
13 industrial protection zone which expired on
14 August, I think, 2nd or August 5th.

15 The Board of Supervisors, by law, cannot
16 extend that industrial protection zone. And so
17 what the Planning Commission elected to do instead
18 was to create a policy, a set of guidelines for
19 the planners suggesting how to basically use the
20 same industrial protection zone guidelines. And
21 housing was designated as the highest and best use
22 in that area around the power plant, which doesn't
23 strike me as a very good move on their part.

24 The neighborhoods are pushing forward,
25 the Potrero Hill Neighborhood and the Dogpatch

1 Neighborhood and other parts of this area are
2 pushing forward with the Board of Supervisors a
3 revised ordinance to try to change that policy.

4 But right now the Planning Commission's
5 policy is the only guidelines that the Commission
6 Staff has to follow in that area. And I'm sure
7 the developers are madly filing permits.

8 PRESIDING MEMBER PERNELL: Okay.

9 HEARING OFFICER VALKOSKY: Thank you for
10 making us aware of that.

11 MR. de CASTRO: And the final thing is
12 that we are concerned about the fact that nobody's
13 even paying any attention to transmission
14 alternatives, or other ways to deal with this
15 issue besides the idea of building a power plant.

16 I agree with the Commissioner that the
17 newer plants are significantly cleaner, but you've
18 got to do the whole work at one time. And the
19 whole thing's got to be tied together, as we
20 pointed out in the Maxwell ordinance, that there's
21 got to be a whole series of contracts to tie the
22 whole thing together.

23 PRESIDING MEMBER PERNELL: Okay.

24 HEARING OFFICER VALKOSKY: Thank you,
25 Mr. de Castro.

1 Before we turn to the applicant, Messrs.
2 Pryor, Westerfield, Ratliff, I think Ms. Simon has
3 raised some points that we need some closure on.

4 First of all, why are you relying on the
5 draft rather than the final NPDES permit?

6 MR. PRYOR: Staff typically relies on
7 that draft rather than the final.

8 HEARING OFFICER VALKOSKY: Okay, with
9 the expectation that the final will not change the
10 contents of the draft?

11 MR. PRYOR: Yes. I can add something to
12 that discussion. We've been told by Janet Ito of
13 the Regional Board Staff, a member, that she
14 expects the final to go before the Board early
15 October.

16 HEARING OFFICER VALKOSKY: So the final
17 would go before the Board in early October, so in
18 any event it is likely that by the time the
19 Committee got to hearings on this we would be
20 dealing with the final NPDES permit under that
21 schedule?

22 MR. PRYOR: If she is correct.

23 HEARING OFFICER VALKOSKY: Okay.
24 Second, how about the comments from California
25 Department of Fish and Game? Are there any

1 outstanding?

2 MR. PRYOR: Thursday we had a discussion
3 with the different agencies, and one of the
4 matters was the Fish and Game letter. Evidently
5 it has been signed and we're expecting it this
6 week.

7 HEARING OFFICER VALKOSKY: Okay, so that
8 just has not come, and that will be proofed to all
9 the parties, correct?

10 MR. PRYOR: I will make sure that that's
11 POS.

12 HEARING OFFICER VALKOSKY: Okay. Then
13 the three items mentioned in the PSA. First, the
14 revised thermal plume modeling?

15 MR. PRYOR: I believe we received that.
16 I'm sorry my memory does not serve me well right
17 now. And I don't have my list from my files of
18 what has been received over the last few months
19 with me.

20 HEARING OFFICER VALKOSKY: Okay, but
21 that information exists and staff did provide it?

22 MR. PRYOR: I would ask that if the
23 applicant could refresh my memory.

24 HEARING OFFICER VALKOSKY: Well, --

25 MR. PRYOR: I have queried staff as to

1 whether they have received everything they needed,
2 and the only thing they said was outstanding was
3 the alternatives analysis for dry cooling.

4 HEARING OFFICER VALKOSKY: Oh, no, we'll
5 get it. I just want it from your point of view.

6 MR. SHILEIKIS: Excuse me, Commissioner
7 Valkosky. This is Dale Shileikis with URS, the
8 environmental consultant for Mirant. And that
9 thermal impacts evaluation was submitted in the
10 early part of July.

11 HEARING OFFICER VALKOSKY: Was it
12 proofed, proof of serviced?

13 MR. SHILEIKIS: Yes.

14 HEARING OFFICER VALKOSKY: Okay.
15 Perhaps you could just provide Ms. Simon an
16 additional copy, since they apparently don't have
17 it.

18 MR. SHILEIKIS: We'd be happy to.
19 That's fine.

20 HEARING OFFICER VALKOSKY: Fine. Next,
21 for the entrainment study?

22 MR. PRYOR: As I said, the other three I
23 can't recall.

24 HEARING OFFICER VALKOSKY: Okay, I'm
25 sorry.

1 MR. SHILEIKIS: Should I speak to the
2 other two, since --

3 HEARING OFFICER VALKOSKY: Just one
4 second, sir.

5 MR. SHILEIKIS: Okay. Anything else?
6 Okay.

7 Now we'll turn to applicant for your
8 reaction on what we've been discussing. Sir. I'm
9 not sure who's going to do the presentation.

10 MR. CARROLL: Why don't I walk through
11 the items on the staff --

12 HEARING OFFICER VALKOSKY: Okay, Mr.
13 Carroll.

14 MR. CARROLL: -- schedule of issues and
15 concerns. I'll ask -- yes, Mike Carroll, Latham
16 and Watkins.

17 I'll ask Mr. Shileikis to fill in the
18 details. First with respect to the FDOC. We
19 understand and are aware that the Air District is
20 waiting for the statement of compliance which we
21 intend to submit this week.

22 I would point out, as has been already
23 mentioned, that typically that document is not
24 submitted until issuance of the authorities to
25 construct. And we are quite some way away from

1 that, and don't agree that the authority to
2 construct is essentially the equivalent to the
3 determination of compliance.

4 But that notwithstanding we're prepared
5 to submit it at this early stage and plan to do
6 that this week. And as we understand it that
7 would be the only issue that the District is
8 waiting on the applicant for in terms of issuing
9 the FDOC.

10 With respect, and perhaps I'll ask Mr.
11 Shileikis, I moved through each of these items,
12 whether there's anything additional?

13 MR. SHILEIKIS: No, that's it. For the
14 FDOC that was it.

15 MR. CARROLL: With respect to the once-
16 through cooling alternatives, I don't know that
17 there is much more to say. We committed to
18 submitting that by September 6th. That's already
19 been discussed.

20 All I can say is that this is an
21 extensive and complicated undertaking. And we are
22 doing it as expeditiously as possible. And have
23 not spared resources in order to produce this
24 document. And this is the earliest possible date
25 that we felt that we could complete it and intend

1 to stick by that deadline.

2 PRESIDING MEMBER PERNELL: And that
3 deadline is September 6th?

4 MR. CARROLL: Yes. With respect to the
5 BCDC reports, we have four items. And I will say
6 that notwithstanding the fact that BCDC is waiting
7 for some additional information, we have had a
8 series of meetings with them, and extensive
9 discussions to address their issues.

10 Part of what you see here with respect
11 to number one, for example, is that many of the
12 agencies that are asked to comment on the project
13 or take a position on the project rely on the work
14 of other agencies. In this case the BCDC wanted
15 to see the work of the Regional Water Quality
16 Control Board before it took its position.

17 That sometimes is a problem when all the
18 agencies are asked to review the projects at the
19 same time. They don't have an ability to wait for
20 the work of the other agency which they can then
21 rely on.

22 So, in response to that we did agree to
23 give BCDC an additional month so that the Regional
24 Water Quality Control Board could complete its
25 analysis. And then BCDC would have an additional

1 month to complete its review once it received the
2 work from the Regional Water Quality Control
3 Board.

4 PRESIDING MEMBER PERNELL: Do you have a
5 date for that, when that month's up, or -- and
6 this might not be a fair question for the
7 applicant, but no one's here from BCDC, so --

8 MR. CARROLL: Yes, the month is up
9 September 6th, which is the next meeting of the
10 BCDC. And the goal had been to have provided BCDC
11 all the information that they needed; and that
12 they would have completed their analysis and then
13 be in a position to take action on the September
14 6th hearing date.

15 With respect to the second BCDC item,
16 we've already talked about that, the alternatives
17 analysis. And that is in the works.

18 With respect to public access and --

19 PRESIDING MEMBER PERNELL: That's --

20 MR. CARROLL: I'm sorry.

21 PRESIDING MEMBER PERNELL: That's
22 alternative analysis as it relates to the plant,
23 not the coolant, not the water dry cooling issue?

24 MR. CARROLL: It's the, as I understand
25 it, it's the cooling, the alternatives analysis --

1 PRESIDING MEMBER PERNELL: It is the
2 cooling?

3 MR. CARROLL: -- for the cooling, yes.

4 PRESIDING MEMBER PERNELL: Okay.

5 MR. CARROLL: It's the same as once-
6 through cooling alternatives, --

7 PRESIDING MEMBER PERNELL: Right.

8 MR. CARROLL: -- so the number two sub-
9 issue with BCDC is the same as the second issue of
10 the staff.

11 PRESIDING MEMBER PERNELL: Okay.

12 MR. CARROLL: With respect to public
13 access and mitigation for fill, we, as I said,
14 have been working with BCDC and with the Port,
15 because obviously the Port has an interest in what
16 the public access will look like, and where the
17 fill mitigation will take place.

18 So we've been coordinating with both the
19 BCDC and the Port on those two pieces. Our next
20 meeting is this Thursday on those issues. And,
21 again, it's not a matter of lack of effort, but
22 determining what type of public access is
23 appropriate in a power plant site is something
24 that takes some thought on the part of the
25 applicant and the interested agencies.

1 So, we're moving forward with that as
2 expeditiously as we can. And as I said, again,
3 the hope is to have all the BCDC issues resolved
4 so that they can take action at their September
5 6th hearing.

6 The only other thing that I would add is
7 I would caution the Committee to be cognizant of
8 this issue that I raised in terms of certain
9 agencies waiting for other agencies to take
10 action.

11 For example, with respect to whether or
12 not the FSA can move forward in the absence of the
13 final NPDES permit as Mr. Pryor stated, that's the
14 way the staff typically proceeds. And one of the
15 reasons for that is that the Regional Water
16 Quality Control Board wants to see the FSA before
17 they issue the final NPDES permit.

18 So we need to be cognizant of getting
19 into a little bit of a chicken-and-egg problem
20 where we say well let's hold up the next staff
21 document until we've got the next agency document
22 in. When, in fact, the next agency document is
23 dependent upon that staff document.

24 So while it sounds good to hold
25 everything up at the Energy Commission and delay

1 until we have all of the input from the other
2 agencies, it doesn't always work that way because
3 sometimes those other agencies are waiting to see
4 your staff's assessment.

5 We should also address the other two
6 items, the entrainment study and the --

7 MR. SHILEIKIS: The entrainment study
8 has not been completed. That won't be completed
9 for several more months as we are still collecting
10 biological data. That's been the expectation.

11 MS. SPEAKER: I'm sorry, I can't hear
12 you.

13 MR. SHILEIKIS: I'm sorry. The
14 entrainment study that you referred to earlier --

15 (Off-the-record comments.)

16 PRESIDING MEMBER PERNELL: These
17 microphones up here reflect the record. So I
18 don't know if we have a mike --

19 CHAIRMAN KEESE: You've just got to
20 speak up.

21 MR. SHILEIKIS: Okay, the entrainment
22 studies that Ms. Simon referred to earlier has not
23 been completed yet. That's dependent upon further
24 collection of biological data that was started
25 earlier this year in January. And that won't be

1 completed until the end of this year. And then
2 the entrainment study then follows.

3 That's part of the whole 316(b) analysis
4 which is a required part of a study that's
5 required by the Regional Water Quality Control
6 Board.

7 And the finally on an issue titled
8 comments from the applicant regarding cleanup of
9 contaminated sediments, I'll have to say that we
10 have responded to numerous data requests from the
11 CEC, as well as the various intervenors, and
12 continue to do so.

13 And, in fact, there are some in the
14 current set of data requests that are out now, set
15 five, that are due on September 6th. But that's,
16 to my knowledge, the only comments that we had
17 planned on providing. I don't know of any other
18 further analyses or comments that we were planning
19 on providing.

20 PRESIDING MEMBER PERNELL: You said,
21 your last statement was something was due by
22 September 6th, again?

23 MR. SHILEIKIS: That's correct, that's
24 the responses to data requests --

25 PRESIDING MEMBER PERNELL: Data

1 requests.

2 MR. SHILEIKIS: -- set number five.

3 HEARING OFFICER VALKOSKY: I'm sorry,
4 could you clarify the one point that Ms. Simon
5 raised, the information concerning cleanup plan
6 for contaminated sedimentation?

7 MR. SHILEIKIS: Well, if I understood
8 Ms. Simon's comment was, I think, she said that
9 she thought that there were additional comments
10 coming --

11 HEARING OFFICER VALKOSKY: I think the
12 inquiry is -- boils down to, is the applicant
13 going to provide any more information on that --

14 MR. SHILEIKIS: Yes, that will come in
15 the last set of data requests that have been
16 issued that will be due on September 6th.

17 HEARING OFFICER VALKOSKY: That will be
18 September 6th?

19 MR. SHILEIKIS: That's correct.

20 HEARING OFFICER VALKOSKY: Thank you.

21 MR. CARROLL: Just the additional
22 clarification to that is other than the data
23 requests that are outstanding, we're not aware of
24 any other requests that's pending applicant on
25 that issue.

1 HEARING OFFICER VALKOSKY: Right,
2 understood. And you did indicate that you would
3 provide the intervenors with a copy of the revised
4 thermal plume modeling, correct?

5 MR. CARROLL: Yes.

6 PRESIDING MEMBER PERNELL: And when will
7 that be? Is that a September 6th date?

8 MR. CARROLL: No.

9 MR. SHILEIKIS: No, we can do that
10 tomorrow.

11 PRESIDING MEMBER PERNELL: Okay.

12 HEARING OFFICER VALKOSKY: Okay, now,
13 going back to your comments, Mr. Carroll or not,
14 whoever wants to answer it, staff indicates that
15 they would expect applicant to submit the final
16 DOC by September 30th. Do you have an earlier
17 date or not? Or is that an acceptable date?

18 MR. CARROLL: That is, and of course
19 this is largely dependent on the Air District,
20 but --

21 HEARING OFFICER VALKOSKY: Understood.

22 MR. CARROLL: -- that is consistent with
23 our understanding of the timing that the Air
24 District has laid out for issuing the final DOC.

25 HEARING OFFICER VALKOSKY: Okay, do you

1 take any issue with staff's projected release of
2 the FSA on October 31st?

3 MR. CARROLL: No.

4 HEARING OFFICER VALKOSKY: Okay. And
5 how about the Port Commission action, do you have
6 any --

7 MR. CARROLL: Yes.

8 HEARING OFFICER VALKOSKY: --
9 information? Okay.

10 MR. CARROLL: As Ms. Minor indicated,
11 let me back up just a moment and explain in a
12 little bit more detail what those discussions
13 center around, because it's been characterized as
14 site control, and that perhaps over-states the
15 situation a bit.

16 Mirant currently holds a license for the
17 existing intake and outfall for the cooling system
18 for the existing unit three. The concept has
19 always been to replace that system with a far
20 superior, in terms of environmental impacts, new
21 system that would provide cooling for both the
22 existing unit three and the new unit seven.

23 The Port and City Attorney have taken
24 the position to date that the existing license in
25 its scope is not sufficient to cover the new

1 cooling system. So the discussions that we've
2 been having to date is over a different license
3 that would cover the cooling system, basically the
4 structures in the Bay, the intake and the outfall.

5 We've had a series of five or six
6 meetings with the Port. We actually had a meeting
7 scheduled today which we had to postpone due to
8 some other activity on the project. I would
9 expect to have a meeting with them not later this
10 week, but next week, to continue those
11 discussions.

12 Basically it's negotiating a license
13 agreement. It's not particularly complicated
14 frankly, and we're in the process of doing it.

15 HEARING OFFICER VALKOSKY: When would
16 you anticipate resolution?

17 MR. CARROLL: The timeframe that we had
18 laid out with the Port was two months from, and
19 this was in a discussion about two weeks ago, we
20 laid out a schedule that contemplated having the
21 license agreement both negotiated at the staff
22 level and approved by the Commission. And
23 prepared for submission to the Board of
24 Supervisors in two months. It will be a little
25 less than two months from today.

1 HEARING OFFICER VALKOSKY: So roughly
2 mid October is what we're talking?

3 MR. CARROLL: Yes.

4 HEARING OFFICER VALKOSKY: Now you said
5 that would be approved by the Port Commission and
6 prepare it to go to the Board of Supervisors?

7 MR. CARROLL: Correct.

8 HEARING OFFICER VALKOSKY: Okay. So
9 correct me if I'm wrong, with the exception of the
10 Port Commission action, you essentially have two
11 dates that you're representing you'll have all the
12 information.

13 And the first is September 6th for the
14 data responses and -- okay, September 6th plus a
15 week for the BCDC report, and the end of September
16 for the final determination of compliance, is that
17 correct?

18 MR. CARROLL: I believe that's correct.

19 HEARING OFFICER VALKOSKY: Okay.

20 PRESIDING MEMBER PERNELL: I have a
21 couple of questions. Looks like you covered most
22 of them.

23 One in relationship to the City, are you
24 in discussions with the City in terms of -- we
25 just got a document that I haven't gone all the

1 way through, I'll assume that you haven't, either.
2 But it seems to me that it's important to, among
3 all of the other discussions you're having, that
4 representatives from the City be also included in
5 some of those discussions, or individual
6 discussions with the City to see what their
7 concerns are.

8 Have you done any meetings with the
9 City?

10 MR. CARROLL: Not as much as we'd like.
11 And we have been attempting to set up additional
12 meetings with the City, other than with the Port,
13 as I just discussed, but we have been attempting
14 to set up additional meetings with the City, and I
15 use that term broadly, including the Supervisors'
16 office, to engage in additional dialogue.

17 And we have not frankly had all the
18 opportunities that we wish we would have had to
19 have those discussions. So I would say that we
20 are certainly pursuing it. Glad to hear the
21 comments tonight that the City is apparently
22 interested in pursuing it, because we think more
23 discussion does need to take place.

24 PRESIDING MEMBER PERNELL: I think that
25 would be fruitful to sit down with the City and

1 understand what their concerns are before we get
2 too far down the road.

3 Does the City object to that, or do you
4 have any concerns in terms of scheduling a sit-
5 down with the applicant?

6 MS. MINOR: Commissioner Pernell, we
7 think that discussions with Mirant and its counsel
8 are very important. And we do want to see those
9 discussions to proceed quickly.

10 I introduced Guy Hollins from the
11 Mayor's Office of Economic Development, and Greg
12 Asay from Supervisor Maxwell's office at the very
13 beginning because they represent two key
14 departments that will play an important role in
15 negotiating with Mirant, looking at broad City
16 issues and concerns, not just those that relate to
17 the Port and the agreement that's required with
18 the Port, or with Hetch-Hetchy and the agreement
19 that's required with Hetch-Hetchy for the
20 transmission lines.

21 PRESIDING MEMBER PERNELL: Okay. So I
22 would assume that after this meeting that there's
23 going to be some exchanges of business cards so we
24 can get that particular show on the road?

25 HEARING OFFICER VALKOSKY: Ms. Simon,

1 you had a question?

2 MS. SIMON: Yes, thank you. I
3 understood that the applicant's response to your
4 question in relation to the entrainment study was
5 that that document would not be completed until
6 the beginning of 2002. And that had kind of been
7 elided, Mr. Valkosky, in your summary. And I just
8 wanted to make sure that we were all agreed on
9 that point.

10 HEARING OFFICER VALKOSKY: Yeah, as,
11 well, I guess let me ask the question of staff.
12 Does staff believe it needs a completed
13 entrainment study in order to prepare its final
14 staff assessment?

15 MR. PRYOR: No.

16 HEARING OFFICER VALKOSKY: That's, I
17 think, where we're at on that point.

18 MR. CARROLL: I might also add that
19 while the current schedule contemplates the
20 entrainment study to continue through this year,
21 we have been attempting to set up a meeting of the
22 agency working group, the various agencies
23 interested in this issue.

24 Our view is the data that's been
25 collected to date is sufficient to provide answers

1 to all the inquiries that were the impetus for
2 undertaking the study in the first place. And
3 we're hopeful that when we sit down with the
4 agencies, I believe we have a tentative meeting
5 date of August 23rd --

6 MR. SHILEIKIS: That's what they're
7 trying.

8 MR. CARROLL: We're trying. There are a
9 half dozen or so agencies involved, so it's
10 difficult. We're hopeful that we won't have to
11 continue collecting data in the entrainment study
12 through the end of the year. But that's the
13 current schedule.

14 HEARING OFFICER VALKOSKY: Thank you,
15 Mr. Carroll, and that may or may not be resolved,
16 but what we're trying to do tonight is find out
17 what information is still needed, frankly, from
18 applicant. And when we can expect staff to
19 complete its FSA.

20 You know, whether or not that's
21 resolved, I don't know, I don't know what the
22 effect would be on it, frankly. But thank you for
23 that update.

24 Can we go off the record for a second.

25 (Off the record.)

1 HEARING OFFICER VALKOSKY: I'd like to
2 note for the purposes of the record while we were
3 on break Mr. Herrera from the Dogpatch
4 Neighborhood Association has appeared, but he has
5 no comment, is that correct, Mr. Herrera? Thank
6 you.

7 And staff requested the opportunity to
8 make one additional clarification. Mr. Pryor.

9 MR. PRYOR: Thank you, Mr. Valkosky.
10 Mr. Carroll with the applicant mentioned that he
11 was expecting an agency working group meeting or
12 teleconference probably, to be the 23rd.

13 Well, we can't make that so we're
14 looking at the 27th or 28th. We will be sending
15 out a notice of that. It's highly technical on
16 the biological end, but it is a public
17 teleconference, as well. So we will be providing
18 a number that you can join in on if you would
19 like.

20 HEARING OFFICER VALKOSKY: Thank you.
21 Now, as I call your name, and I'm doing it in no
22 particular order, if you'd just approach the
23 podium, use the microphone, and please spell your
24 last name for the record so that our reporter has
25 it correct.

1 Okay, the first one, Joan Wood.

2 (Off-the-record comments.)

3 MS. WOOD: My name is Joan Wood, and
4 it's spelled in the usual fashion, J-o-a-n and
5 W-o-o-d. I'm a resident of North Beach in San
6 Francisco. I have another residence in Sutter
7 County. Some of you are wondering why you saw me
8 in relation to the Sutter Power Plant, and now
9 you're seeing me about this plant, but it's
10 because I actually have two residences, which I
11 think is allowed.

12 And I was going to talk about asthma,
13 because I learned in my opposition to the
14 placement of the Sutter Power Plant that that
15 subject had never been brought up; even though, as
16 with Potrero Hill and Hunter's Point, Sutter
17 County has a huge incidence of asthma, much larger
18 than could be expected. It may have been from
19 rice straw burning. We don't know.

20 But the subject was never brought up in
21 the certification process with the Sutter Power
22 Plant, and when it was brought up at the highest
23 level in Washington I was told that it was a valid
24 item to bring up, but that it had been brought up
25 too late.

1 Ms. Sims said everything that I could
2 have said and ever so much better, so I don't
3 think that I'm going to pursue that issue.

4 I think that I want to warn not all of
5 you, but the residents who have come out, that
6 they had better be prepared for what is going to
7 happen. This is significant public participation,
8 it is the only way, the only way to defeat the
9 placement of this plant, is if you keep on showing
10 up for these meetings.

11 I have a working knowledge of a number
12 of other plants. The Baldwin Energy Project, Mr.
13 Pernell knows about that one. Apparently it was
14 turned down because of significant public
15 participation and objection.

16 PRESIDING MEMBER PERNELL: Ms. Wood,
17 that's not the reason it was turned down. The
18 applicant withdrew the application.

19 MS. WOOD: I'm sorry. You're absolutely
20 right. They did withdraw, and it was the La Jolla
21 something-or-other, which had no relationship
22 whatever to Mirant. I'm sorry, but you knew about
23 it.

24 PRESIDING MEMBER PERNELL: Yes, ma'am.

25 MS. WOOD: Okay. If you continue to

1 protest the next thing that will happen, I
2 guarantee it, is that a lot of money will be
3 thrown your way in some form or another. \$10
4 million was offered, not by Mirant, but by another
5 company for flood control in the county that I'm
6 the most familiar with. And I think in Richmond
7 still a third company offered to build a community
8 development center. We already have a nice
9 community center, so that isn't the way that it's
10 going to come.

11 And the next thing that's going to
12 happen is the unions are going to get involved,
13 and they're going to promise jobs. And that's
14 always very attractive. And, yes, there will be
15 jobs if this goes forward. It takes about 20 or
16 22 months to build a power plant.

17 The situation here is remarkably similar
18 to what happened in Sutter County. An
19 enterprising company found a small plant was
20 operating there, had been operating for 12 years,
21 unsupervised, of under 50 megawatts, which means
22 they're not very closely supervised.

23 And so the enterprising company bought
24 the land and then proposed that they were going to
25 put a 500 megawatt plant on top of it, because

1 it's very attractive to these companies, the
2 infrastructure already exists, the source of their
3 natural gas has already been resolved.

4 And so there are a lot of similarities.
5 It's a poor county, nobody ever thinks about it
6 much except people that have their farms there.
7 And the other similarity was the high incidence of
8 asthma.

9 The unions are going to tell you they
10 have an umbrella organization, the acronym is
11 CURE, C-U-R-E. Sometimes they're intervenors in
12 projects like this, and they're going to agitate
13 for a union contract and after they get it they're
14 probably going to leave and drop the issue of
15 pollution.

16 Then there is the -- I can't believe how
17 wonderful the City Attorney's Office has
18 researched this. You have so many points that I
19 would have liked to have raised, and it's all been
20 done.

21 The only thing I don't see is that if
22 you allow this plant to have water cooling,
23 they'll be putting warm water back into the Bay.
24 And putting warm water back into the Bay changes
25 the ecology completely. And fish that like cold

1 water are going to depart and fish or crabs or
2 shrimp or whichever species likes warm water will
3 come in. And it will change the ecology.

4 And if there's any kind of fishing
5 industry dependent on those creatures, that will
6 be affected. That is not as important to me
7 perhaps as pollution, and not to you, but it is
8 something that hasn't been brought up yet.

9 HEARING OFFICER VALKOSKY: Ms. Wood,
10 could you address your comments on this plant to
11 the Committee, please.

12 MS. WOOD: I wanted to kind of rile up
13 the audience here. Okay.

14 (Laughter.)

15 MS. WOOD: People here know more than I
16 do about the Bay Area Air Quality Management
17 District, and I believe that although they are all
18 under the umbrella of the Air Resources Board, the
19 State Air Resources Board, I think each District
20 has slightly different rules.

21 In the county that I'm more familiar
22 with they had a rule that any power plant under
23 the jurisdiction of the company, the smaller ones,
24 the two smaller ones that were already there, and
25 the larger one that is intended to be built, all

1 of the plants in Sutter County, the emissions were
2 to be counted from all of them.

3 And the Air Resources Board doesn't
4 usually intervene, even though they're the
5 supervisor, unless there are complaints.

6 Somehow they intervened and they told
7 the other company that they had to mitigate all
8 the emissions. I don't know what's happening with
9 the Bay Area Air Quality Management District. But
10 I would suggest that the City Attorney's Office
11 could think about that.

12 If they have a rule that all the
13 emissions from the controlled plants have to be
14 mitigated, it will make their task a little bit
15 harder.

16 There's another kind of mitigation; I
17 don't see any mention of it here. It's ERCs,
18 emission reduction credits. That's if you don't
19 get a consent to close the PG&E plant in Hunter's
20 Point, then you will start hearing about emission
21 reduction credits.

22 What that means is the pollution that
23 has been taken away because the company went
24 bankrupt or farmers stopped burning, which is what
25 happened in Sutter County, all of that's pollution

1 that has supposedly been taken away, it will be
2 counted up and then the company will be allowed to
3 put that amount back in. Don't forget, you heard
4 about it first here.

5 That's all -- oh, --

6 (Laughter.)

7 MS. WOOD: -- one more thing that I
8 wasn't going to talk about, but I heard it stated
9 that if a new cleaner burning plant, and they are
10 cleaner burning, I've no questions about that,
11 goes on line that somehow older coal-burning or
12 diesel-burning, if there are any, I don't know if
13 there are, I know there are coal-burning plants in
14 Bakersfield, that they will shut down.

15 Well, in your dreams. If a company owns
16 a money making, coal-burning plant, and another
17 company is going to put a newer gas-using plant on
18 line, do you think the old one is going to shut
19 down because of that? Why? It's just not going
20 to happen. It sounds great. Maybe in 30 years
21 they'll wear out or something like that, but that
22 is not a proper way to think about putting up a
23 new power plant.

24 And that's all I want to say. Thank
25 you.

1 PRESIDING MEMBER PERNELL: Thank you,
2 Ms. Wood.

3 HEARING OFFICER VALKOSKY: Thank you for
4 your opinions.

5 Mr. Ken Cleaveland.

6 MR. CLEAVELAND: Ken Cleaveland; I
7 represent the Building Owners and Managers
8 Association. We're an Association of 255
9 commercial office buildings in downtown San
10 Francisco. We represent about 250,000 workers,
11 daily workers that work downtown.

12 And obviously you'll hear a lot of
13 testimony tonight about the environmental impacts.
14 Nobody wants a polluting factory, or a polluting
15 plant in any particular neighborhood. But what
16 has not been brought up is the impact on the
17 business community and impact on the City's
18 economy, and the overall impact on this region if
19 we don't have adequate, reliable power.

20 So, I'm here just to state that we have
21 to understand that we are dependent, we are kind
22 of a little island here, on producing a large
23 percentage of the power that we use in San
24 Francisco within San Francisco. Everyone at the
25 table here certainly already knows that.

1 We, as a business community, were not
2 consulted concerning the ordinance that was passed
3 by Supervisor Maxwell that created a nexus between
4 shutting down Bayview/Hunter's Point and building
5 a bigger and better Potrero plant.

6 You don't have the power to shut down
7 the Bayview/Hunter's Point plant. ISO does. We
8 understand that. Why the supervisors passed
9 something that they know you have no power to do,
10 I don't understand, that you have no control over.
11 I don't understand.

12 The supervisors are allowing this power
13 plant to be held hostage on the closure of the
14 Bayview/Hunter's Point power plant. We think
15 that's wrong. The business community, the people
16 that own the houses, and downtown San Francisco
17 thinks it's wrong.

18 We believe that the CEC should look at
19 the greater good for this area, for the entire
20 City of San Francisco, and insist that we have an
21 approved power plant that is cleaner than the
22 existing one, and that will give us the
23 reliability that the business community in San
24 Francisco deserves.

25 Thank you.

1 PRESIDING MEMBER PERNELL: Thank you,
2 Mr. Cleaveland.

3 HEARING OFFICER VALKOSKY: Thank you,
4 Mr. Cleaveland. Okay, next, Marie Harrison.

5 MS. HARRISON: Well, first and foremost,
6 I actually do not need the microphones because I
7 have three children, I have learned to amplify
8 real well, so I want you to listen to me closely.
9 Don't expect that the loudness of my voice is
10 anger because I'm not angry yet, but I'm about to
11 get angry.

12 First and foremost, let's straighten up
13 some things. Working with the community of
14 Bayview/Hunter's Point, and being the outreach
15 person, being the person responsible for bringing
16 all of the environmental groups together to fight
17 the sale of this antiquated plant in
18 Bayview/Hunter's Point to stop the expansion of
19 the plant here in Potrero Hill, because those of
20 us who live here know that what happens here will
21 happen to Bayview/Hunter's Point, even moreso.

22 Those of us whose grandchildren and
23 children sit there day after day going -- waking
24 up in the morning, can't breathe, and going to bed
25 congested. We know what the real problem is and

1 what the situation is.

2 And to assume that the business
3 community is being harmed versus the health of our
4 families and our children is criminally wrong.
5 And I have to say that, because --

6 (Applause.)

7 MS. HARRISON: -- I believe that. You
8 see, because I'm the somebody that my grandson who
9 goes to bed at night --

10 PRESIDING MEMBER PERNELL: Ms. Harrison.

11 MS. HARRISON: -- and can't breathe, I
12 have --

13 PRESIDING MEMBER PERNELL: Excuse me,
14 but you have --

15 MS. HARRISON: -- to say this, excuse
16 me, I'm --

17 PRESIDING MEMBER PERNELL: -- to address
18 us.

19 MS. HARRISON: -- going to tell you
20 then, --

21 PRESIDING MEMBER PERNELL: You have to
22 address it to us.

23 MS. HARRISON: -- I am the person who
24 has to wake up in the middle of the night and have
25 to take him to the hospital because he can't

1 breathe, because his bedroom overlooks that old
2 antiquated plant in Bayview/Hunter's Point.

3 So that makes me angry. That's all the
4 anger I have. Now, let's get down to facts.

5 I worked with the community to get that
6 plant dismantled and closed down. The whole
7 agreement that this community, that our community
8 agreed to, and that Supervisor Maxwell knows very
9 well, which is why this Maxwell ordinance was
10 passed, to try to assist us in making sure that
11 the ISO does not hold us hostage to an expansion
12 of a plant that will do just as much damage as the
13 old one that we're trying to close down.

14 For a couple things, one, we didn't
15 agree to that. The agreement, the original
16 agreement was to be that under no circumstances
17 was that plant to remain open after the conclusion
18 of the deal. The deal was we would leave it open
19 and start the procedures to close it down, as a
20 matter of fact, by the end of next year we should
21 have been in the process of tearing it down and
22 doing a complete, total and complete remediation
23 of that area.

24 Because of the extenuating circumstances
25 of the illness and the fact that PG&E cannot, in

1 all good conscience-ness, say that they have not
2 harmed Bayview/Hunter's Point and our Potrero
3 Hill, and anybody downwind or upwind or across the
4 Bay with the pollutants that they have been
5 putting in the air.

6 We're not stupid. We understand that
7 this City is lacking energy. Whether or not there
8 is an energy crisis or not is a whole another
9 question and I would hold you to task for that
10 one, because personally speaking, and I know I'm
11 not alone, I don't believe that there ever was an
12 energy crisis. I think it was just a means in
13 which to earn a little bit more money at our
14 expense.

15 Having said that, understand that
16 working with the community as I have, and will
17 continue with great action, okay, with the Bay
18 View newspaper, with the community folks from
19 Bayview/Hunter's Point and many of those from
20 Potrero Hill, and Visitation Valley, you need to
21 know that this plant offers us nothing. Nothing.

22 There are new reusable ways in which to
23 generate energy. There is a -- I mean you could
24 farm it in, you could run a power line under the
25 water, across the bridge. There are things that

1 they're not even looking at.

2 No one has yet answered my question from
3 a few months back as to what is happening to the
4 plant life and the fish life out there in that
5 Bay. Because our old plant is still pushing out
6 warm water into our Bay.

7 My community folks, both Asian-speaking,
8 non-English speaking folks, Latin Americans, they
9 fish out there. They eat what they catch. We may
10 be a poor community, but we have great concerns
11 about our health and our children's health.

12 And it would be a travesty if you would
13 try to force this process faster, try to skip any
14 lines, try to assume that if you get all the
15 proper approvals that we, the community, are going
16 to sit back and allow this to happen.

17 Because we're looking at something
18 besides energy. We're looking at a lot of things.
19 We're looking at our health and our well being. I
20 think we're looking at all the things and all the
21 ways that energy could be generated and could be
22 saved. Okay?

23 And I got to tell you, those big
24 businesses down on Market Street in the Financial
25 District, who have done absolutely nothing for my

1 community, have done absolutely nothing for my
2 grandson, who have done absolutely nothing for the
3 folks who live here, they need to stand in line.
4 And think about some of the ways in which they can
5 be conserving energy, and not how to better push
6 this process forward so that our families can be
7 harmed.

8 Having said that, I'm finished.

9 PRESIDING MEMBER PERNELL: Thank you,
10 Ms. Harrison.

11 HEARING OFFICER VALKOSKY: Thank you,
12 ma'am.

13 (Applause.)

14 HEARING OFFICER VALKOSKY: Allison
15 Shore.

16 MS. SHORE: Okay, I'm not very good at
17 projecting, but I'll try. First, I want to say
18 thank you for allowing us to give comments, and
19 for the recorders, because many of us have been
20 coming out, actually for months now, and not had
21 the opportunity to go on record. So I want to
22 thank you for recording, as well.

23 So, basically, first of all I'm a
24 resident -- S-h-o-r-e, last name -- a resident of
25 Bernal Heights, and I am a homeowner, as well.

1 Just because homeownership was mentioned.

2 But I'm basically here to urge you to
3 say no to this power plant. Having attended all
4 the meetings, as I've said, for months and months,
5 I think the community has raised many compelling
6 reasons for why this particular application -- I
7 understand you're looking at this application by
8 this applicant -- will be a detriment to this
9 community.

10 This plant is simply too big. As far as
11 I understand, it's the largest plant of it's --
12 you know, it's the largest plant in this high a
13 population density area. I know of no other,
14 personally, other plant of this size this close to
15 a city center or a city population.

16 It's too close to schools, it's too
17 close to children, it's too close to a community
18 that already has an above-average asthma rate.

19 And also one thing when we think about
20 how close it is to residential areas, this
21 gentleman pointed out earlier about rumblings
22 going on in the Planning Commission and changes of
23 zoning, if we look at today, now, we may see less
24 residences than if we look over the lifetime of
25 this plant, which is 40 years.

1 And the reality is there's a light rail
2 going in down Third Street, and that this area is
3 one of the last areas that is really projected to
4 have a very very high population growth and
5 increase in housing.

6 So, we're concerned about our abilities
7 also to retain affordable housing if we can't
8 build housing because we have a power plant in the
9 middle of one of our last areas to do so.

10 And one of the other things that keeps
11 coming up at all these hearings is the talk, you
12 know, we keep hearing no significant impact.
13 We've raised public health issues; air quality is
14 a big concern; and we keep hearing no significant
15 impact.

16 We're not hearing much about, we're not
17 seeing much cumulative analysis of the various
18 effects of the two freeways going through, the
19 power plant down there, which as we've heard
20 tonight there's no guarantees that that power
21 plant will actually be shut off, so we could wind
22 up having that. We could wind up having peaker
23 plants, plus the 110 tons additional PM10 in this
24 small area.

25 And when we talk about mitigation the

1 only discussion we've heard so far is about \$1
2 million for adding retrofitting school buses,
3 which have a life of maybe 14 years. And we're
4 talking about a power plant that's 40 years.

5 But also when we do hear about
6 mitigations, we hear about pollutions credits
7 being traded across the Bay. And we hear about
8 mitigating to current levels, which are already in
9 violation of air quality standards because of that
10 plant down there.

11 So, basically because we have an old
12 polluting plant that means that these guys are
13 only under obligation to mitigate to a current
14 level which is already in violation.

15 So, we're very concerned as community
16 residents about what we are going to have to
17 breathe on a day-to-day basis. And because the
18 size means that a lot of this power will be sold
19 on the open market. So it's not just going for
20 our local businesses, 500 megawatts or, excuse me
21 if I get the number wrong, but, you know, where is
22 this power going, and what burden are we going to
23 have to bear.

24 And, finally, just really we urge you to
25 look at the environmental justice issue. This is

1 a real issue. It's been broken down into
2 different chunks and pieces, and all together
3 disaggregated into no, this isn't an issue. But
4 we think it is an issue, and we think it's real,
5 and we really would like to see this Commission
6 take it seriously and not just write it off.

7 Finally, the whole issue of being the
8 held hostage, I think I pretty much covered it,
9 between, you know, Bayview and Potrero, we're
10 concerned that we're going to wind up with both.
11 And we do want Bayview shut down no matter what.
12 We think there are other applicants that can maybe
13 come up with better plans to get something that
14 meets the reliability needs, is less polluting and
15 doesn't hold us hostage for something that we may
16 not even gain in the end.

17 So, that's it. Thank you.

18 PRESIDING MEMBER PERNELL: Thank you,
19 Ms. Shore.

20 (Applause.)

21 HEARING OFFICER VALKOSKY: Michael
22 Strause, I believe.

23 PRESIDING MEMBER PERNELL: Good job.

24 MR. STRAUSE: Yeah. Several years ago
25 before these people even owned this plant a number

1 of studies were done by the UC Berkeley and others
2 which identified the central waterfront as a
3 location that was ideal for high density
4 residential and mixed use development.

5 And pursuant to that the City's a little
6 slow in getting these ideas out and creating plans
7 and redevelopment study areas, and they never got
8 around to it before these people bought the plant.

9 But they did get around to coming up
10 with zoning for that particular area. And in 1999
11 the area in red was all zoned for housing. It was
12 housing encouraged. And that big red splotch
13 right here is the power plant land.

14 So, when they made their application
15 they made it an area that the City wanted to have
16 housing built.

17 Now, over this time several people have
18 made applications, myself, I'm one of them, in the
19 neighborhood of the power plant. And that zoning
20 expired about last week sometime, and just like
21 Mr. de Castro said, the Planning Commission just
22 last week came up with interim controls; they're
23 very short.

24 They're probably going to come up with
25 permanent controls on the 24th, but as you can see

1 what happened is it's all housing zoned right
2 around the power plant. It's zoned around the old
3 section of the power plant and not the expanded
4 section where the power plant's going to go, which
5 is right over here.

6 The City has lots of, and in fact now
7 it's called housing zone, encouraged mixed use
8 housing developments, especially proposals for
9 housing the maximized allowable densities. It's
10 right around the power plant. It looks like that
11 the City has different ideas what would be good
12 here.

13 The kind of housing that could be
14 developed on the 200 acres that is the central
15 waterfront at the same density of lower Nob Hill
16 could support approximately 20 million square feet
17 of housing and commercial development. I mean
18 that's, at today's values, is a \$10 billion
19 development. And real estate business and
20 transfer taxes would create to the City \$133
21 million.

22 Inclusionary affordable units that are
23 included in that would, if the City was to build
24 them elsewhere, would have to -- and that's 4000
25 units which would cost about -- at \$250,000

1 apiece, would cost a billion dollars. The City
2 would pay for that with a 9 percent, 15-year loan,
3 it would cost \$127 million just to replace them
4 elsewhere.

5 The annual rent subsidy for those 4000
6 units, if they want to subsidize into market-rate
7 housing, which they have programs for, would cost
8 another probably \$40 million a year. That adds up
9 to \$300 million a year of lost opportunity for the
10 central waterfront that is going to be blighted by
11 this plant for the next 40 years.

12 Now, talk about mitigation, I mean you
13 can ask them to pay \$300 million a year, but
14 that's absurd. But I think even more absurd is
15 having, you know, you people and other people
16 invite 19th century smokestack industry into an
17 area that is clearly in the path of progress.

18 And we have a housing crisis that's
19 ongoing; it's going to be continuing long after
20 the present housing or energy crisis is going to
21 be a faded memory.

22 So, there are alternatives. In fact,
23 Hetch Hetchy has put out notices in the papers
24 saying that they'd like help building their 570
25 megawatt plant they proposed at the airport.

1 I would suppose that if Mirant went to
2 them today and said, we'd build that and we'll
3 trade our land at Potrero for land sufficient to
4 build that plant at the airport and have a
5 transmission line connected to either Martin or
6 the substation at Potrero, I bet they'd jump at
7 the chance. And I bet all these people would be
8 happy, and they'd --

9 MS. SPEAKER: Not me.

10 MR. STRAUSE: Oh, you wouldn't? Oh, you
11 wouldn't like it --

12 MS. SPEAKER: None --

13 PRESIDING MEMBER PERNELL: Okay, we need
14 to -- you need to address the Committee.

15 MR. STRAUSE: Okay, but that's all I
16 have to say, that you have, if you want to
17 understand what those studies are, there's about
18 100 pages of studies that were done by SPUR, the
19 Potrero Neighborhood group, and it's in this
20 booklet. You have this booklet, I know you've
21 probably, you know, among the stacks of paper you
22 must receive every day, this might be lost.

23 But I know I gave it to Roberta and she
24 said she gave it to every one of you. So if you'd
25 like to find out what the plans were for that,

1 it's here.

2 Thank you very much.

3 PRESIDING MEMBER PERNELL: Thank you,
4 Mr. Strause.

5 (Applause.)

6 HEARING OFFICER VALKOSKY: Peter
7 Walbridge.

8 MR. WALBRIDGE: I am Peter Walbridge,
9 spelled W-a-l-bridge. I'm a ten-year resident. I
10 have three kids about a quarter mile from here,
11 hopefully sleeping in bed. And I do these
12 meetings as an act of love because I want them to
13 have my house. They seem like the only kids in my
14 neighborhood that aren't on respirators, so I
15 consider our family to be pretty lucky. So I
16 fight to keep us lucky.

17 I hear a really great spin on the power
18 plant. We get to get rid of that antiquated
19 plant; we would put in a new plant that would
20 cause less damage to the water. And I think if
21 all that was truly the case no one would really be
22 here.

23 Because no one really wants an old power
24 plant in their neighborhood. I would love to have
25 a brand new, squeaky clean plant with state of the

1 age technology. But you're not offering to do
2 that.

3 You're offering to double the size of
4 our power plant. And I feel like the neighborhood
5 is on the verge of being tricked into thinking
6 that it's a win/win situation. Everyone talks
7 about how great this is going to be for us. And
8 all I know is that particulate matter, stuff in
9 the air that gives kids asthma, is going up.

10 And you can't trade that increase in a
11 mobile source. You can't say that yes, that power
12 plant's going to pollute more, but we'll take a
13 few buses off, we'll do this, we'll do that. I
14 don't think that's acceptable.

15 If you build us a plant that has the
16 exact same number or less of pollution in all four
17 categories, and you build us a plant that won't
18 heat the water any more than it is today, this
19 meeting would be over.

20 So let's not forget that you're asking
21 us to get increased capacity in our neighborhoods
22 which is going to increase the pollution. Maybe
23 not in all four categories, but it's going to
24 produce pollution.

25 So I don't like the idea that everyone's

1 playing this off on this side of the room as being
2 really great for the neighborhood. These people
3 live in Atlanta. I'd like to move the power plant
4 on their golf course in their neighborhood and see
5 if anybody complains. Because they would, and
6 they should.

7 Thank you.

8 (Applause.)

9 PRESIDING MEMBER PERNELL: Thank you,
10 Mr. Walbridge.

11 HEARING OFFICER VALKOSKY: Nancey Odell.

12 MS. ODELL: Hi, I'm Nancey Odell. I'm a
13 Potrero Hill resident, and also a homeowner. And
14 a lot of people have said what I was going to say
15 tonight, so that's good, I can make things
16 briefer.

17 But I did want to just underscore again
18 the environmental justice issue. Worst of all, I
19 can move, I can do that. I can sell my place and
20 leave. But there are housing developments here
21 where people can't sell their place and leave.

22 I think it's pretty clear that this area
23 is, there's a cumulative effect of pollution that
24 hasn't been adequately addressed. Ms. Shore
25 brought that up, that we have 280, we have 101, we

1 have a lot of congestion from all of the car
2 traffic.

3 There's a sewer plant; there's Hunter's
4 Point, there's lots of things in this area that
5 are causing pollution, not just this one power
6 plant. And I don't think that's been adequately
7 addressed.

8 We've heard from neighbors of the, you
9 know, asthma with their children. There are a lot
10 of daycare facilities out here. There's a higher
11 rate of asthma in this particular area than in
12 other parts of San Francisco. And I don't think
13 that that's being adequately addressed.

14 Somebody tried to rationalize expanding
15 a power plant here for business. Well, if you
16 don't have your health, business isn't going to be
17 worthwhile to you.

18 So, again, I think that the Commission
19 should take a real hard look at environmental
20 justice issues and take that into consideration in
21 evaluating alternative sites. We haven't heard
22 how alternative sites were evaluated as far as the
23 level of density of people that would be affected.

24 We have heard that there are plans to
25 produce more housing in this area, which would

1 mean, you know, you can't have it both ways. It
2 would mean that either more people are going to
3 get sicker, or we don't build there.

4 And that's been pretty clear that
5 there's a housing shortage in San Francisco. So,
6 again, I think that that needs to be taken into
7 consideration.

8 And also again with the alternative
9 sites, what's their cumulative impact? What other
10 pollutants do they have in their area? It's been
11 said time after time that Potrero Hill babies,
12 Hunter's Point, this area is tired of being a
13 dumping ground to carry the rest of the City.

14 Maybe the rest of the City needs to
15 share the burden instead of dumping it over in
16 this area.

17 Personally, it's best not to have a
18 power plant near any residential area. But, you
19 know, again, why does it always have to be here
20 where people are already sick.

21 That's it.

22 HEARING OFFICER VALKOSKY: Thank you,
23 ma'am.

24 PRESIDING MEMBER PERNELL: Thank you,
25 Ms. Odell. Ms. Odell, and also for Ms. Shore,

1 there will be a cumulative impact analysis done.
2 So we do hear you when you say that. There are
3 other pollutants around the Bay that need to be
4 considered.

5 HEARING OFFICER VALKOSKY: Chris Weeks.

6 MR. WEEKS: Hello, my name's Chris
7 Weeks. I live in Bernal Heights, and my last name
8 is spelled W-e-e-k-s. Some of you may have seen
9 me at the previous meetings, and others, this will
10 be your first time hearing from me. Thank you for
11 listening.

12 I just want to talk about, I think I
13 have it broke down to maybe five issues that I
14 think I can address that maybe other people
15 haven't addressed so far.

16 The first one is that I've been born and
17 raised in California in this area. I grew up
18 playing in the creeks that used to be unpaved.
19 Now all the creeks in my town are paved. You
20 know, there's no natural creeks anymore. There's
21 no fish there. There's no crawdads that I used to
22 catch and play with. Those things are all gone.

23 When I was a child I found barrels of
24 toxic waste dripping into the creek. I called my
25 mom. She called the government. And the

1 government said, you're right, this is illegal.
2 And made it a Superfund site. And to this day
3 there's a sign in that spot that says, don't go
4 here.

5 I think right now we're in a time that's
6 one of those cases in history where there's a mad
7 rush going on. And California's seen many of
8 those. Starting with the gold rush and going up
9 to today with the rush in Silicon.

10 And what I've seen is the effects that
11 these rushes have when people take hasty actions
12 and rush to meet the needs and demands of people
13 who want to profit on these rushes.

14 And one of these is like Fairchild
15 Corporation; dumped huge amounts of toxins into
16 the water and poisoned all of the water in San
17 Jose. Huge amounts of the underground water. And
18 it's still toxic.

19 Another thing we need to take into
20 account, too, is for example, you can't eat more
21 than one fish a month out of the Bay because of
22 mercury. It's dangerous. There's many people who
23 don't know that, and many people who eat more than
24 one fish a month out of the Bay.

25 So I think the only thing that you can

1 do, as people who are charged with the power to
2 make these types of decisions, is to look at the
3 people who are making these requests of you, and
4 look at how they have behaved.

5 And I'm sure, as you guys are
6 professionals in this field, you'll know all the
7 stuff that I've read, that Mirant is part of
8 Southern Corporation. And Southern Corporation is
9 a huge producer of power for the planet. But at
10 the same time they're being also sued by the EPA,
11 and they're also one of the biggest polluters on
12 the planet. And I think that you should take that
13 into account when you're looking at the
14 personality of the company you're dealing with.

15 And as you know, they've just hired new
16 lawyers and the people that those lawyers
17 represented in the past, I'm sure you guys are
18 aware of that, also.

19 When you look at this community I think
20 it's important to also take into account you did
21 address cumulative amounts, and you said that
22 there was going to be a study done on this. But I
23 want to urge you to also address the compounding
24 of multiple sources of toxins.

25 And some of which I don't know whether

1 we can quantify what's there. There is a fire at
2 the Naval Shipyard underground that no one could
3 tell us what was burning, and wouldn't tell us
4 what was burning. The smoke was green. And it's
5 still there. So you need to look at that.

6 And it's a fire that's secret, what's
7 burning there. You look at the effects of this on
8 the community, and you've heard the people talk
9 about it today.

10 I don't think that the way that you guys
11 are thinking of addressing this will work, as far
12 as using regional pollution credits to address
13 local pollution problems. And I know that you
14 guys deal with this and wrestle with this every
15 day, and it's a difficult issue.

16 But I know that if your organizations
17 are willing to work with our community we can help
18 you come up with ideas. And I can tell you that
19 even in these previous meetings when a
20 presentation was made to us, that they were going
21 to just take some diesel buses off the street, and
22 that's how they were going to take care of it.
23 Hands went up in the room; ideas everywhere. They
24 didn't solicit those ideas from us before they
25 came before us and said, representing us, said

1 that this was what they were going to do.

2 And I should let you know that I've gone
3 around to all the neighborhood associations
4 surrounding here in the direction where I live, I
5 live in Bernal Heights. I've been to the Bernal
6 Heights Neighborhood Association; I've been to the
7 Reseda Valley Neighbors Association; I've been to
8 the InterMission Neighbors Association; I've been
9 to the Northwest Bernal Alliance.

10 I've gone to every one of these
11 neighborhood associations. People did not know
12 about this. The community was not informed and
13 was not asked about what they thought should be
14 done. Whether they wanted this plant in their
15 community. Whether they even thought there was a
16 need.

17 I was the first one talking to them
18 about it. And they were asking me, why are -- who
19 are you, you know, who are you coming here and
20 telling us about it. Are you a member of the
21 government? Are you a person from Mirant
22 Corporation who wants to put in this thing in our
23 community and you want to convince us to do it?

24 I said, no, I'm just a guy who lives
25 over in Bernal Heights. I read it in this paper.

1 And then I had a little extra time and looked on
2 the internet.

3 You know, it's like people are supposed
4 to be representing the people who live around here
5 are not reaching out to the community to tell us
6 what's going on. Because there would be a lot
7 more people here tonight. And I don't know if
8 that's what you want, but you'd get more of a
9 sense of the personality of San Francisco.

10 And I mean San Francisco is a beautiful
11 City and we pride ourselves on that. And you see
12 the San Francisco skyline, if someone paints it,
13 you rarely see a smokestack. And the only one you
14 will see is that one right out there. So take
15 that into account.

16 And the last point I'd like to make,
17 thank you for listening for so long, is that
18 there's some things that we've brought up several
19 times to the staff. And even in their last
20 presentation, they gave us a Powerpoint
21 presentation right where you're sitting tonight,
22 and these issues weren't included, even again.

23 One was the issue of the history of that
24 area, and that for a long time this stuff called
25 lampblack was dumped there by PG&E. And it's

1 going to be pulled up by excavation or any type of
2 building in that area.

3 And I talked to the soils guy. He said,
4 well, that's not my issue, that's the air quality
5 guy. We talked to the air quality guy, he says
6 that's not my issue, that's the soil guy. And
7 they were there on different days, no one
8 addressed it.

9 And then in the final presentation it
10 wasn't up there.

11 PRESIDING MEMBER PERNELL: What's it
12 called?

13 MR. WEEKS: It's called lampblack. So
14 I'd like you to look into that, if you have a
15 chance.

16 PRESIDING MEMBER PERNELL: Do you know
17 what it is?

18 MR. WEEKS: It has something to do with
19 the early production of electricity, I think, I
20 don't know.

21 (Parties speaking simultaneously.)

22 PRESIDING MEMBER PERNELL: Okay, that's
23 all right, we can -- we'll --

24 MR. WEEKS: It's soot.

25 PRESIDING MEMBER PERNELL: -- find out.

1 MR. WEEKS: Yeah, something like soot,
2 which I'm not a scientist so I can't tell you what
3 the effects of that will be, but I was offended
4 that it did not show up as a topic. Even though
5 it was brought up at several meetings by not just
6 me, but also members who were either worked for
7 PG&E or had in the past, or knew about this
8 lampblack situation in this area.

9 I think that you guys have all learned
10 tonight that there's an inordinate amount of
11 asthma in this community. And you'll see that
12 when you read these reports. And it'll be hard
13 for you to say that there's no significant impact
14 on this community when there already is if you're
15 going to be maintaining the pollution levels at
16 present state. There's already an inordinate
17 impact on this community as far as asthma goes.

18 And I'd like to close up just by having
19 you guys look at yourselves and think you guys are
20 charged with the power to make decisions over
21 corporations that come to you with good plans and
22 bad plans.

23 And from what I've been able to see I've
24 never seen a plant proposal that you have turned
25 down. And I think that now might be your chance.

1 And it might be a good chance to send these
2 gentlemen back to the drawing board.

3 I know that you have it in you, and I
4 think that you guys should look at your own
5 stockholdings, and think about what that means for
6 you. I know that there's a gentleman on the panel
7 here that I read in The San Francisco Chronicle
8 who owns stock in 14 different corporations that
9 were involved with power production, maybe up to
10 20.

11 PRESIDING MEMBER PERNELL: Mr. Weeks,
12 that has nothing to do with our decision here.

13 MR. WEEKS: Okay, well, I don't know if
14 that's a crime or not, but I think that we should
15 look into that.

16 So, thank you for your time and please
17 look into those issues, because I don't think
18 they've been addressed up to this point, and you
19 guys have the power to do it. Thank you.

20 PRESIDING MEMBER PERNELL: Thank you
21 very much.

22 (Applause.)

23 CHAIRMAN KEESE: Let me explain one
24 thing about the process. The Committee here is
25 going to make a decision based on the evidence

1 that's placed in front of us.

2 This hearing, this meeting is not
3 evidentiary. We haven't begun to start the
4 presentation of evidence. We are here tonight to
5 work on the schedule, and when people are going to
6 put things in front of us.

7 We've certainly, at least I certainly am
8 getting a flavor for the feeling of the community.
9 But we haven't heard anything about asthma. When
10 it comes time for us to discuss health aspects, we
11 will have presentations. And if you wish to
12 present on asthma, we will have a presentation on
13 asthma, both sides of the issue.

14 It is not a slam dunk that we're going
15 to ignore an issue. But at this point in the
16 process we're discussing the process. Then we
17 will have a day when we will discuss water, a day
18 when we will discuss air, a day when we will
19 discuss soils.

20 And it's going to be an extended, long
21 process. You shouldn't feel that by mentioning
22 something here it's now done. It's on the record,
23 yes. We've heard it, we know what your feeling
24 is. But when the time comes that we start the
25 evidentiary hearings just like a court of law, we

1 will hear evidence.

2 And then we are obligated to make our
3 decision based on the evidence that comes in, in
4 front of us. We can't make it on anything other
5 than the evidence, and we can't invent the
6 evidence.

7 This is a little early to say I'm
8 pleased to see everybody participating here. It's
9 important that you get your issues out early so
10 other people can hear them, like the staff, who we
11 can't talk to. We can't talk to these people
12 other than in a public forum like this because
13 we're the judges. They're a party who's
14 representing the people. They're a party just as
15 much as the applicant or the intervenors are.

16 So they need to hear your ideas. We
17 need to hear your ideas. And we will start the
18 evidentiary process later.

19 PRESIDING MEMBER PERNELL: Okay, we --
20 (Parties speaking simultaneously.)

21 HEARING OFFICER VALKOSKY: I'm sorry, --

22 PRESIDING MEMBER PERNELL: We can't have
23 it -- do you have a card?

24 HEARING OFFICER VALKOSKY: Ma'am, you're
25 going to have to come up to address, and identify

1 yourself for the record. And I'd like to caution
2 everyone, this is not a question-and-answer
3 session, okay.

4 MS. GUTFLEISCH: Then I won't ask a
5 question. I'm going to state what information I
6 have. And that is that for a number of years --

7 PRESIDING MEMBER PERNELL: What's your
8 name for the record, please?

9 MS. GUTFLEISCH: My name is June
10 Gutfleisch.

11 HEARING OFFICER VALKOSKY: Spell your
12 last name?

13 MS. GUTFLEISCH: G-u-t-f-l-e-i-s-c-h. I
14 have been following professionally and as an
15 avocation, actually, studies that are being
16 conducted all over the world on the effects of
17 things like electromagnetic forces and other kinds
18 of atmospheric conditions on health.

19 Also I happened to be working for the
20 City when the Telecommunications Act of 1996 was
21 passed. One of the things that was stipulated
22 with the passage of that Act is that any
23 municipality, any person, anyone wanted to raise
24 objections to the placement of antennas for
25 cellular phones could not use health as a reason

1 for doing so. No matter what evidence they might
2 be able to produce. That's still the case right
3 now.

4 The World Health Organization has been
5 working for about eight years looking for a
6 correlation or no correlation between various
7 kinds of cancer clusters and that kind of stuff
8 all over the world.

9 And so far, no reputable scientist has
10 been willing to say, yes, there is conclusive
11 evidence. So, I'm, I think, hurt or offended that
12 you're suggesting to us tonight that by taking,
13 having an evidentiary hearing that you are going
14 to come up with that information, because I submit
15 I don't think you can.

16 (Applause.)

17 HEARING OFFICER VALKOSKY: I think a
18 clarification there on the evidentiary hearing was
19 that qualified experts will present evidence; the
20 Committee will evaluate the probative value of the
21 evidence. The Committee doesn't create evidence;
22 it just reacts to what's presented to it by
23 qualified experts.

24 Believe me, many times I wish we could
25 create evidence, but that's not the way it works,

1 you know.

2 PRESIDING MEMBER PERNELL: Okay, let's
3 move on.

4 HEARING OFFICER VALKOSKY: Jackie
5 Williams.

6 MS. WILLIAMS: Jackie Williams;
7 Williams, W-i-l-l-i-a-m-s. On January 26th -- oh,
8 and I'm from South San Francisco. The reason
9 that's relevant is South San Francisco on January
10 26th, nobody realized, was in San Mateo County.

11 The airport is in San Francisco, but the
12 residents are in San Mateo County. And that's why
13 I've been coming to these hearings. And I've done
14 a lot of research since January 26th when a three-
15 week rush job was done on the El Paso Plant at the
16 airport. It got approved, but now it's in the
17 hands of Hetch Hetchy and San Francisco.

18 And the reason I'm concerned is that
19 nobody seems to be taking into consideration
20 what's going on here. There's 55,000 megawatts
21 right now that ISO has, and we only use 35,000
22 megawatts. This is very interesting because there
23 is no crisis. We will see that. Anyone seen
24 blackouts? No.

25 We've got no crisis. In fact, the state

1 is selling the megawatts they bought for, I don't
2 know, \$286 a meg for \$1. So where the hell is the
3 crisis here, and why do we need a power plant to
4 begin with? Not only in San Francisco, or as
5 somebody suggested, in South San Francisco, where
6 lo and behold, we've got three of them planned,
7 which is all going to be before you in a very
8 short period of time.

9 And the total cost, megawatt-wise, of
10 1500 megawatts. Now, how many megawatts do you
11 guys reckon we need in San Francisco? Do you know
12 what the load is in San Francisco? Either of you?
13 Seeing as you're making decisions. The answer is
14 no.

15 Well, the load is 980 megawatts. And
16 we've got most of that in Hunter's Point and in
17 Potrero. And coming up through the lines. The
18 load in the Peninsula, between Coyote Point and
19 the San Martin station, believe it or not, is 280
20 megawatts. Did you know that? No.

21 I think that's something we should be
22 aware of, 280 megawatts for the Peninsula, 980 or
23 whatever for San Francisco.

24 Now, in South San Francisco right now,
25 tomorrow, in fact, they've got an RFP before them

1 for a power plant at the sewage plant. That is
2 just across the street, like from here to there.
3 We've got San Francisco Airport who's just -- San
4 Francisco has just approved a 50 megawatt plant,
5 an RFQ of 50 megawatts. It's just gone to a
6 Canadian company, I understand. It is going
7 before the San Francisco PUC tomorrow for 50
8 megawatts. That's an RFQ, 50 megawatts is going
9 to the airport and right behind it is a 550
10 megawatt. That's at the airport, that's the old
11 Golden Gate project when I first came in January
12 26th before the Commission, and first met anybody
13 from the CEC.

14 That is 600 megawatts. Across the
15 street you got 350 megawatts that my city, South
16 San Francisco, is approving an RFP tomorrow.
17 They've got all the contracts out, 16 contracts
18 are out. It comes in tomorrow. That's 350
19 megawatts.

20 Now, walk a quarter mile and you come to
21 AES' project. It's been before you, it's on the
22 list. But there's a question mark. That's 570
23 megawatts.

24 There's a few others. There's Hunter's
25 Point. You've got nearly 2000 megawatts, and that

1 gentleman asked, we need the power. Why do we
2 need the power? That megawatts, if it's all
3 built, is going to go into the grid and it's
4 probably going to go outside California. It's not
5 going to come to us as that gentleman, he hasn't
6 been to any of the other meetings, he's
7 misinformed. He needs to know if we really need
8 power.

9 And unfortunately, the CEC doesn't
10 agree, you don't have any need. You don't have to
11 have a need. You are going to bring it back maybe
12 after you've got power plants surrounding the Bay.
13 But right now you've got two in San Jose, you've
14 got three going by the airport, you've got this
15 plant, and I just heard there's one in Hayward.

16 You need to look at the whole regional
17 issue of what you're doing, because Governor Davis
18 is wrong. He's putting pressure on you guys to
19 put in power plants. What are you going to do,
20 surround our Bay with power plants? Not just one.
21 You're keeping them all hidden like San Francisco
22 doesn't know what's going on next to the airport
23 with the sewage plant, because South San Francisco
24 and San Francisco don't talk to each other.

25 I talk to everybody. I come here. I

1 tell you what's going on so you're lucky. And I
2 got it in the paper two weeks ago. I told the
3 reporter, you'd better put in that article because
4 nobody's telling everybody what's going on, but I
5 know where this one's going, where that one's
6 going, and there's too many.

7 And you all know there's too many, and
8 you're doing nothing about it. And you're
9 supposed to be in charge. But one day this is
10 going to come back and hit you right in the tush.

11 (Laughter.)

12 MS. WILLIAMS: I know it is, because
13 you're going to have too many, and you're going to
14 be selling your power plants for \$1 just like
15 Davis is, making big mistakes.

16 Now, I'm going to Judge Goldstein's
17 court at the California PUC hearings. What do you
18 think they're discussing? Does anyone know? No,
19 because you don't talk to them. But I'm going to
20 the hearings.

21 Judge Goldstein's court is talking about
22 transmission lines. They want to get power from
23 Mexico up here. And the way they're doing it is
24 by AES, which is involved again, Mirant is not as
25 far as I know. The AES wants to bring their power

1 up from Mexico, bring it up from Arizona and put
2 the lines, transmission lines. And, of course,
3 the generator companies don't want to pay for
4 them.

5 But Judge Goldstein's court is talking
6 about transmission lines. And this is where all
7 the generator companies meet, where the public
8 doesn't go, because they don't know anything about
9 these damn meetings. But I do.

10 And there's another information going on
11 about route -- it's not route 15, what is it?

12 PRESIDING MEMBER PERNELL: Path 15.

13 HEARING OFFICER VALKOSKY: Path 15.

14 MS. WILLIAMS: Path 15. Now that you
15 know about. That's in another court.

16 (Laughter.)

17 MS. WILLIAMS: That's good. Only the
18 name. Well, there's another guy holding a court,
19 Judge Goldstein gave me the address, but there's a
20 Path 15, and if you're making decisions for us
21 then you darn well better know all about these,
22 what's going on at these hearings. And you better
23 know what's going on about the transmission lines,
24 and how they're talking about bringing in a 230 kV
25 line from on the Jefferson-Martin line, which is,

1 if you bring that in, you don't need this plant on
2 Potrero.

3 You bring this 230 kV line in, you don't
4 need it, and it costs \$110 million. But you don't
5 need this power plant. And you need to consider
6 that. But, of course, you don't have any needs,
7 you don't have to consider need the same as you
8 don't have to consider public health. That's
9 wrong.

10 But I can't change the way it is, it's
11 just wrong. And I want to get it off my system.
12 And this is a great opportunity.

13 Also, I want to know, I want you to do
14 some research on transmission lines. That is
15 where the key to all this is. Because if you do
16 the research on transmission lines, or get the
17 staff to do the key to transmission lines, and
18 find out what's happening in these courts of the
19 CPUC, you'd understand how there is alternatives
20 available.

21 Okay, that's off me soap box for that.
22 The other thing I wanted to address here tonight
23 is the fact that you want to get rid of public
24 comment. And this is with regard to regulation
25 title 20, 17108.

1 HEARING OFFICER VALKOSKY: Ma'am, ma'am,
2 that is just not relevant to what we're trying to
3 do here tonight.

4 MS. WILLIAMS: Okay, but can I just
5 bring in very shortly because it's the only time
6 we get to see the Commissioners. And even though
7 it's not relevant, I would like to tell you that
8 the process that you just had a meeting on where
9 you tried to cut out public comment so you could
10 talk to the staff and you could talk to other
11 people, and you want to allow closed door meetings
12 with the generator companies, that is not
13 acceptable to the people because we enjoy the
14 public comment and we have.

15 We've gone through the hearings here of
16 36 hours of workshops. We haven't seen you go
17 through them, but we have.

18 HEARING OFFICER VALKOSKY: I understand
19 that, and I don't know the date, but the full
20 Commission will be considering that matter, those
21 proposed regulations, which by the way, I'm not
22 involved in, at a future business meeting.

23 Now, our Public Adviser can give you the
24 date when that business meeting is scheduled --

25 MS. WILLIAMS: They've already had the

1 meeting. They've already had the meeting and we
2 already put in our comments, the few of us that
3 knew about it.

4 HEARING OFFICER VALKOSKY: No, no, this
5 is the full Commission. The full Commission --

6 PRESIDING MEMBER PERNELL: Right, what
7 you're -- let me shed a little bit of light --

8 MS. WILLIAMS: I think it's important.

9 PRESIDING MEMBER PERNELL: -- on this.
10 What you're talking about is a proposed change to
11 the siting regs, and that's all it is right now, a
12 proposed change.

13 That will be worked out within the
14 Siting Committee and come to the full Commission
15 for a vote. So, what you're talking about is a --
16 and you are very well informed, but it's a
17 proposed change. It's not a change. And you've
18 already written a letter on it, and so we're
19 accepting comments on those.

20 But that has nothing to do with what
21 we're doing here tonight, but I --

22 MS. WILLIAMS: It does if we suddenly
23 lose our right to comment in the process. I think
24 it affects everybody here to know. Most of the
25 people here don't know anything about that. So if

1 they're losing their right to --

2 PRESIDING MEMBER PERNELL: But, you
3 know, you're saying that and --

4 MS. WILLIAMS: -- they need to know
5 that.

6 PRESIDING MEMBER PERNELL: -- you're on
7 record, and I have to correct you. Right now
8 you're not losing your right to do anything.
9 You're before us. You're telling us information,
10 and --

11 MS. WILLIAMS: Right.

12 PRESIDING MEMBER PERNELL: -- we're
13 listening, so you're not --

14 MS. WILLIAMS: I appreciate that.

15 PRESIDING MEMBER PERNELL: -- losing
16 your right to comment.

17 MS. WILLIAMS: Okay. But we would if
18 this proposal goes through.

19 CHAIRMAN KEESE: No.

20 PRESIDING MEMBER PERNELL: It is a --

21 MS. WILLIAMS: Excuse me?

22 PRESIDING MEMBER PERNELL: It is a --
23 no.

24 MS. WILLIAMS: It was to open up the
25 process to more closed --

1 PRESIDING MEMBER PERNELL: All right,
2 but I don't want to get --
3 (Parties speaking simultaneously.)
4 PRESIDING MEMBER PERNELL: We need to do
5 this offline. I don't want to have all of this
6 information on the record when we got a record of
7 a case.
8 MS. WILLIAMS: Okay, that's fine.
9 PRESIDING MEMBER PERNELL: So, if --
10 MS. WILLIAMS: But I think it's relevant
11 to these --
12 PRESIDING MEMBER PERNELL: -- we can --
13 MS. WILLIAMS: -- people because they're
14 going to lose their right to comment. And the --
15 PRESIDING MEMBER PERNELL: No, they're
16 not. Okay, we --
17 MS. WILLIAMS: Okay, --
18 PRESIDING MEMBER PERNELL: -- do you --
19 all right, --
20 MS. WILLIAMS: -- okay. The right for
21 you to talk and not give an accountability to the
22 people, maybe I should say that.
23 PRESIDING MEMBER PERNELL: I think you
24 need to --
25 MS. WILLIAMS: You have a right to talk

1 to staff and not give an accountability to the
2 people here.

3 PRESIDING MEMBER PERNELL: All right,
4 Ms. Williams.

5 MS. WILLIAMS: Okay, I'm through --
6 okay, let me see if there was something else here.

7 Okay, air quality monitoring. I don't
8 know if there's any air quality, ambient air
9 quality monitoring at the site of Potrero.
10 There's only two stations, one at Arkansas Street
11 and one in Redwood City.

12 And when they were doing the one at the
13 airport, they said that they would have to meet
14 certain controls for the ambient air quality
15 monitoring. That was for the area around
16 cumulatively.

17 And I want to know if you've looked into
18 the fact of getting an ambient air quality
19 monitoring system in at the Potrero Plant.
20 Because we keep on asking for it, but I don't know
21 if that's ever been discussed. But I would like a
22 note made that that should be done at that site,
23 because everybody's talking about the cumulative
24 impact. And we need a way of testing what's going
25 on at the site.

1 And I appreciate your time and the fact
2 there is public comment.

3 (Applause.)

4 PRESIDING MEMBER PERNELL: Thank you.

5 HEARING OFFICER VALKOSKY: Okay, I've
6 just been informed that this hall closes at 10:00.

7 PRESIDING MEMBER PERNELL: What time is
8 it?

9 HEARING OFFICER VALKOSKY: It is now
10 9:25. I have five more commenters, so if I could
11 just ask you to be nonrepetitious and be as short,
12 sweet and to the point as possible, we'd
13 appreciate it.

14 Barbara George.

15 MS. GEORGE: I'll see what I can do.
16 The first thing I wanted to ask about is the last
17 meeting I was here there was no public record.
18 And there were people who said that they were
19 taking notes, I didn't see anybody actually taking
20 notes.

21 I thought there were great comments made
22 last time, and I don't understand why there was no
23 record being taken. Can you explain that to me?

24 PRESIDING MEMBER PERNELL: Last week was
25 a workshop. This is a Commission hearing, status

1 conference actually. But normally the workshops
2 are designed to get issues out on the table for
3 any specific issues, such as air quality or health
4 or EJ, I think was the one you were at,
5 perhaps, --

6 MS. GEORGE: Yeah, it was environmental
7 justice, --

8 PRESIDING MEMBER PERNELL: Right.

9 MS. GEORGE: -- and nobody was taking
10 any notes. I was shocked. And there wasn't any
11 radio, you know, taping, recording, --

12 PRESIDING MEMBER PERNELL: A recorder,
13 yes.

14 MS. GEORGE: -- of it, or a video
15 recording. It's a shame. Because there were some
16 incredible, wonderful comments. And it was, you
17 know, really a terrible loss that they were not
18 recorded.

19 CHAIRMAN KEESE: I tried to explain
20 earlier that we're the Committee of two here. And
21 we're the judge. And that's fine for you to work
22 with staff and try to work out what the issues
23 are.

24 But we can't accept evidence until we
25 start the evidentiary hearings. And then we're

1 going to ask --

2 MS. GEORGE: But why are you taping
3 tonight, then? What's different about tonight?

4 CHAIRMAN KEESE: So the public knows
5 what went on.

6 MS. GEORGE: Well, I think the public
7 should know --

8 CHAIRMAN KEESE: But when --

9 MS. GEORGE: -- what went on last week,
10 too. I think it was really important. So,
11 anyway, that's --

12 PRESIDING MEMBER PERNELL: But the issue
13 of environmental justice will come back when we
14 start our hearings, so that --

15 CHAIRMAN KEESE: All of these issues --

16 PRESIDING MEMBER PERNELL: -- issue is
17 not dead by any means.

18 CHAIRMAN KEESE: All of these issues
19 will come back.

20 PRESIDING MEMBER PERNELL: So it will --

21 MS. GEORGE: Well, fine, but you say
22 that you're -- I mean I don't know why, you know,
23 what are we doing here last week, just kind of,
24 you know, hanging out and chatting?

25 (Laughter.)

1 MS. GEORGE: You know, people spent
2 their time coming over. They thought they were
3 talking to the Energy Commission. They thought
4 they were going to be heard. And I don't consider
5 that they were heard because a bunch of guys,
6 frankly, they were all guys, were sitting there
7 and nobody was taking notes. And I found that
8 really offensive.

9 HEARING OFFICER VALKOSKY: Okay, point
10 made, ma'am. The last I want to say on this is
11 the reason it's recorded in the presence of the
12 Commissioners is the Commissioners are the ones
13 that make the decision, okay.

14 Therefore, our procedures require
15 legally that there be a record of, frankly,
16 everything they hear, whether it's evidentiary or
17 nonevidentiary. That's why we have the court
18 reporter here tonight. Okay?

19 MS. GEORGE: Okay. Next issue that I'm
20 concerned about is the fact that the Energy
21 Commission, I believe, has no responsibility
22 anymore for making a decision about whether we
23 need power plants. Either because we need the
24 energy or because -- and whether it's financially
25 sound decision.

1 HEARING OFFICER VALKOSKY: That is
2 correct. That was changed --

3 MS. GEORGE: That 's not, no more.

4 HEARING OFFICER VALKOSKY: -- that was
5 changed by an Act of the Legislature, and signed
6 into law by the Governor a couple years ago.
7 That's correct.

8 MS. GEORGE: Okay, well, there was
9 another thing that has, I mean I think this is an
10 outrage that these things are not being
11 considered, and I'm taking that up with the
12 Legislature, as well.

13 But I also think that there are things
14 that the Energy Commission could be doing which it
15 no longer does. I believe that the California
16 Energy Commission became nationally known when it
17 first got started because it kept figures, very
18 detailed figures on what the energy usage in
19 California was.

20 And those figures were available for
21 people. And I understand that those figures are
22 no longer really being kept in the same way that
23 they were in the past. I don't know whether it's
24 because they're not available from the utility
25 companies. I know they've done everything they

1 can to hide those kinds of issues.

2 But, anyway, I think that's, you know,
3 an incredible situation, since everybody is out
4 there saying we have an energy crisis and, you
5 know, I agree with several of the commentators
6 that there's a big question about whether there
7 really is an energy crisis or not.

8 And if the Energy Commission had been
9 keeping it tracked of whether or not we needed
10 more energy and how much was being used, would
11 certainly have, you know, have a bearing on that.
12 Then we would have something to talk about whether
13 there's really an energy crisis or not.

14 And when I saw the report earlier this
15 year that The Chronicle gave, when there was all
16 this talk about oh, we got 13 percent energy
17 shortage, or a 21 percent, you know, growth in
18 energy, and all this nonsense. And it turned out
19 that there wasn't any, it was like 3 to 4 percent
20 in the last year or two, and it had been 2 percent
21 before that. And we had little bits of extra
22 power that have been coming on line, so there
23 really, you know, there's a question of whether we
24 still or ever had an energy crisis, I think, is
25 still on the table.

1 And you guys have really let go of your
2 responsibility of tracking what's needed, what's
3 being used, and how we can get the power in ways
4 other than building new power plants.

5 You know, energy efficiency, one of the
6 things I understand is the Energy Commission is
7 having a war right now with the Public Utilities
8 Commission because you guys want to own energy
9 efficiency programs. You know, there's this big
10 battle about who's going to administer energy
11 efficiency programs, and which other agency is
12 going to come out on top. Maybe they'll take it
13 all away and give it to the Public Power Authority
14 instead.

15 But in the meantime I don't think that
16 your behavior with just letting these data just go
17 is a good reason to give you guys the energy
18 efficiency decisions.

19 And, you know, I just want to say, I
20 think that energy efficiency and renewables are
21 totally capable of solving any energy crisis that
22 ever was, or any growth in future energy.

23 You folks have your offices in
24 Sacramento, and you are fortunate enough, probably
25 you live in Sacramento, some of you, to be able to

1 have the public power from Sacramento Municipal
2 Utility District, which ten years ago decided when
3 they closed their nuclear power plant that there
4 was going to be every bit of new energy was going
5 to be supplied by energy efficiency and renewable
6 energy.

7 That decision should be made for the
8 entire State of California and the whole country,
9 because the truth of the matter is we've got a
10 global warming problem, guys. I don't know if
11 you've been reading the paper the last ten years,
12 but there's definitely something happening out
13 there.

14 And new power plants like these guys
15 supply is not the answer. We have got a major
16 problem. We have to cut back on all of the
17 emissions for the public health, for, you know,
18 the short term, the asthma and all that stuff.
19 And then the long term, and who knows how long
20 it's going to be before global warming gets worse
21 than it is now. And then we're, you know,
22 floating here in parts of the Bay.

23 I'll work on it.

24 HEARING OFFICER VALKOSKY: Well, ma'am,
25 you're just taking time from other people.

1 MS. GEORGE: So the energy -- okay,
2 well, I have one last point that I really need to
3 ask you about, because there's an issue about
4 whether or not our money, public money, is being
5 spent in a way that makes any sense.

6 And I have to ask you, Mr. Keese, your
7 personal finances do not give me any reason to
8 believe that you are going to pay attention to my
9 money because the report was that you didn't even
10 know what your investments were. You have
11 \$500,000 worth of investments and you didn't know
12 whether they were in energy or in mutual funds?

13 PRESIDING MEMBER PERNELL: Ma'am, ma'am,
14 again, again, --

15 MS. GEORGE: Now I want to know if you
16 have written a letter --

17 PRESIDING MEMBER PERNELL: Wait, wait,
18 wait, wait --

19 MS. GEORGE: -- to your broker or your
20 financial advisor to complain about the fact that
21 you thought you had mutual funds, instead you had
22 energy --

23 PRESIDING MEMBER PERNELL: Ma'am, --

24 MS. GEORGE: And I think the fellows
25 from Mirant should be paying attention to this,

1 because they might be able to sell you some stock
2 after the meeting tonight.

3 PRESIDING MEMBER PERNELL: Ma'am,
4 you're --

5 MS. GEORGE: And you were going to say
6 something? I would appreciate your -- Mr. Keese,
7 I --

8 PRESIDING MEMBER PERNELL: No, no, wait
9 a minute. I'm running this meeting, ma'am.

10 MS. GEORGE: Oh, okay, you run the
11 meeting and I'd like to hear from Mr. Keese.

12 PRESIDING MEMBER PERNELL: You want to
13 make your conclusions now.

14 MS. GEORGE: Huh?

15 PRESIDING MEMBER PERNELL: You have some
16 final conclusions?

17 MS. GEORGE: I want to know how Mr.
18 Keese is going to manage my money.

19 PRESIDING MEMBER PERNELL: Okay, then
20 you have to ask him that off the record. This is
21 about --

22 MS. GEORGE: No, I think this is a very
23 important matter on the record. I think that this
24 whole Commission is --

25 PRESIDING MEMBER PERNELL: Ma'am, --

1 MS. GEORGE: -- totally out of line.

2 Are you going to arrest me --

3 PRESIDING MEMBER PERNELL: No, --

4 MS. GEORGE: -- for asking --

5 PRESIDING MEMBER PERNELL: -- we got to
6 get you off the record, ma'am.

7 MS. GEORGE: -- about energy stocks that
8 Mr. Keese has? I think that the Commission should
9 be --

10 (Off the record.)

11 PRESIDING MEMBER PERNELL: We're back on
12 the record.

13 HEARING OFFICER VALKOSKY: We really
14 don't need any more drama or photo
15 opportunities --

16 (Parties speaking simultaneously.)

17 MS. SPEAKER: Just answer the question.

18 HEARING OFFICER VALKOSKY: -- or
19 whatever --

20 PRESIDING MEMBER PERNELL: The question
21 is not before the Commission. Call the next
22 witness, please.

23 HEARING OFFICER VALKOSKY: Yes, sir,
24 Willie Ratcliff.

25 MR. RATCLIFF: My name's Willie

1 Ratcliff. I'm President of the African-American
2 Contractors Association. And I publish The San
3 Francisco Bayview newspaper.

4 I think it's a travesty that we're here
5 when we look at our situation. I was reading a
6 little article about George Washington Carver
7 School. Eighty percent of the kids in that school
8 have asthma. Now, that's unheard of. Eighty
9 percent. You've heard of 20, but 80 in that one
10 particular school has asthma.

11 Now, one lady brought up here the
12 accumulation of the impact of all of the different
13 pollutants we have out here and PG&E is just one;
14 we've got the shipyard, we got all kind of
15 Superfund sites out here. There's over 1800
16 deaths of cancer that we attributed to PG&E and
17 the shipyard.

18 And big money is just taking over this
19 state. And the Commission is not serving the
20 public. Because right now you can't even say
21 whether we even need the power plants. So are we
22 going off half-cocked? We are. We're poisoning
23 ourselves and our kids, and one businessman
24 downtown gets up and talk about what we need here.
25 The power that kill us will go to Canada. It'll

1 go to Texas, and wherever else you're thinking
2 about.

3 We have 70 schools within a three-mile
4 radius of here. We need to study to help what's
5 happening here, because we ran a power plant out,
6 and it just as large as Mirant, or larger, that
7 tried to come in over in Bayview/Hunter's Point.

8 And we tried to save to make sure that
9 this power plant over here didn't wind up in
10 private hands, because we knew what was coming
11 down. And now we face it, just what we hollered
12 about.

13 We were able to hold that one over
14 there, but at least it didn't wind up in private
15 hands. When it wind up in public hands, we have a
16 chance to do better.

17 But the only thing going to stop this
18 plant, just like we stopped that one over there,
19 is the people. That's what it's going to take, to
20 crowd this place, to crowd this room, and tell
21 you, hell, no, we not going for you poisoning us
22 and something we don't need.

23 They talk about they can't even bring a
24 transmission line across the Bay. No we see what
25 happened to BART the other day. But we can do

1 things to have power in the City and have power
2 for this country. But we need a comprehensive
3 program to do that. And not shoving it down our
4 throats.

5 We will not let that power plant in
6 there. Everybody say we wasn't going to stop the
7 one over there. AES had never lost a power plant.
8 They build them all over the country. But we
9 stopped them, we stopped them. The shipyard,
10 making sure it's going to be developed, I mean
11 cleaned up before it's developed, and we're going
12 to do the same thing about these power plants.

13 We don't need them. We don't need this
14 one. We don't need the one at the airport. And
15 we need to start looking at renewable energy and
16 start using it. And stop the corruption that's
17 keeping us going after fossil fuel everywhere.

18 And then really contributing to the war
19 that's happening over there in the Middle East,
20 because of our energy policy right here in this
21 country. And we need to do something about it.

22 And I'm asking that Potrero Hill and
23 Bayview/Hunter's Point and the surrounding
24 communities out there in the eastern part of this
25 City get together and stop those people from

1 downtown, and them from out of Texas and
2 everywhere else that wants to jam this down our
3 throats and kill us.

4 We dying right now from being over-
5 polluted. All over this area. And we want our
6 Commissioners to look out for the public interests
7 and not big money's interests.

8 Thank you.

9 PRESIDING MEMBER PERNELL: Thank you.

10 (Applause.)

11 HEARING OFFICER VALKOSKY: Mike Thomas.

12 MR. THOMAS: My name is Mike Thomas,
13 T-h-o-m-a-s. I work with Communities for a Better
14 Environment.

15 I first just wanted to thank the
16 Commissioners, Commissioner Pernell and
17 Commissioner Keese, for coming down. I did have a
18 chance to meet Commissioner Pernell back in
19 November at the beginning of this process. This
20 is the first time I've had a -- be in the same
21 room with Commissioner Keese. So thank you both
22 for coming down this evening.

23 Secondly, I'd like to thank Jackie Minor
24 and the Mayor's Office for coming up with this
25 excellent document that they submitted tonight

1 regarding some of the issues that folks have been
2 talking about this evening.

3 And specifically we're talking about the
4 schedule for this evening. And I wanted to also
5 thank the California Energy Commission Staff for
6 actually recommending an additional month for the
7 final staff assessment to come out. And I hope
8 that the Commissioners seriously consider that.

9 I'm not even quite sure if a month is
10 enough time. I know we're going to revisit that,
11 I believe, in the beginning of the end of the
12 September.

13 I mean there's 21, just looking at
14 Jackie Minor's and the City and County of San
15 Francisco's comments, there's 22 open issues,
16 missing or incomplete data information that's not
17 provided by the applicant, Mirant. There's 22 of
18 those issues that they've outlined.

19 At the environmental justice workshop
20 that was here just a week ago or two weeks ago,
21 the staff didn't even acknowledge or recognize or
22 address Supervisor Maxwell's ordinance completely,
23 not even on their Powerpoint presentation; never
24 even brought up.

25 They didn't even introduce the

1 Supervisor to the other staff members and to the
2 public.

3 PRESIDING MEMBER PERNELL: Was the
4 Supervisor here?

5 MR. THOMAS: Yes.

6 (Chorus of yeses.)

7 MR. THOMAS: Yes, yes. Total disregard.
8 And then the final point I just want to make up,
9 is there's eight, you know, again there's eight
10 different agencies that need to review and comment
11 on this proposal.

12 So please listen, I mean I appreciate
13 your patience this evening, and look forward to a
14 longer process that we can get the answers right.
15 I hope you guys aren't pushed by the schedule, but
16 looking to get the right answers to these
17 important questions that people are bringing up
18 this evening.

19 So, thank you.

20 PRESIDING MEMBER PERNELL: Thank you.

21 HEARING OFFICER VALKOSKY: Thank you,
22 Mr. Thomas. Karen Pierce.

23 MS. PIERCE: Karen Pierce, P-i-e-r-c-e.
24 I'm a native San Franciscan, resident and
25 homeowner of Bayview/Hunter's Point. I have a lot

1 of affiliations, but just let me say, as these
2 comments have been going on I just want to tell
3 you that I am on a steering committee for the
4 development of a conference on breast cancer and
5 the environment.

6 And one of the issues that the
7 scientific community wants to look at is the
8 relationship between pollution and cancer, and
9 particularly breast cancer.

10 You've heard a lot about asthma. I
11 recognize that this is not an evidentiary hearing.
12 And so I'm going to try to move on to the issues
13 that you're here for.

14 A lot of people have spoken about
15 environmental justice. And they've covered it
16 very well. We've covered it many times. But I do
17 have to say that the staff's environmental justice
18 analysis is deficient. As a result of that the
19 mitigation recommendations that they've made are
20 also inadequate.

21 And as you were so gracious to explain
22 to us, they are a party also. We have been trying
23 to get them to change and include in their final
24 report some of the issues that have been raised.
25 To date we have not seen any evidence that they,

1 in fact, are going to include any of that.

2 We have recommended a number of
3 documents that they could rely on in the analysis
4 of the environmental impacts, and the
5 environmental justice impacts. To date they have
6 not reviewed those.

7 They have admitted that to us. So, if
8 you're going to take a look at the full impact,
9 you're going to be looking from -- you're going to
10 be accepting evidence that has been identified as
11 inadequate. And needs to be adequate.

12 And I believe that that's why you have a
13 status conference tonight, to insure that all the
14 documentation that you're getting is the full
15 documentation.

16 I wanted to make a slight correction to
17 the Port process. Before the proposed lease goes
18 to the Port Commission it will be presented to the
19 Southern Waterfront Advisory Committee, which is
20 an advisory committee of the Port, and I am the
21 Chair of that advisory committee.

22 And they will take into consideration
23 what our response will be to the proposed lease.
24 We've had a preliminary discussion of that
25 proposed lease. And it is not favorable. So, in

1 Mirant's report about what's going to happen with
2 the Port, there was an assumption that the Port
3 Commission will pass the lease on to the Board of
4 Supervisors. That is not a given. In fact, that
5 is highly questionable.

6 HEARING OFFICER VALKOSKY: If I could
7 just interrupt you for a second. Is there any
8 specific time that the Advisory Committee has to
9 review and prepare their recommendations to the
10 Port Commission?

11 MS. PIERCE: We've done a preliminary.
12 We will have -- this will be back on our agenda on
13 August 20th, at which time we will probably take
14 action if the staff has a complete enough report.

15 If the staff doesn't have a complete
16 enough report, we will take action when they have
17 a complete report. It will not go before the Port
18 Commission until we have had the opportunity to
19 make our recommendation.

20 There are other Port Advisory Committees
21 that also want to make comments because they are
22 affected by the Port's lease, as well.

23 HEARING OFFICER VALKOSKY: Okay, just
24 for one point, now, do these other Port Advisory
25 Committees all make the comments before the Port

1 Commission --

2 MS. PIERCE: Absolutely.

3 HEARING OFFICER VALKOSKY: -- considers
4 the final -- okay.

5 MS. PIERCE: Absolutely. And we will
6 all be at the Port Commission to verify what our
7 final vote is.

8 HEARING OFFICER VALKOSKY: Okay. And is
9 there any specified time during which all of these
10 advisory committees have to act, either --

11 MS. PIERCE: I think the --

12 HEARING OFFICER VALKOSKY: -- when the
13 draft is submitted or before the Port Commission
14 acts?

15 MS. PIERCE: I think the Port Staff has
16 been quite diligent in this process. And they
17 have insured that the issue gets before all of the
18 advisory committees that should have the
19 opportunity to make a comment.

20 And they will insure that all the
21 comments are made before it goes to the
22 Commission. And it's for that reason that even
23 though there's nothing specific yet to discuss,
24 the Port Staff has brought this issue.

25 So that it will occur in a timely

1 fashion. The real key is it's not a slam-dunk.

2 HEARING OFFICER VALKOSKY: Thanks for
3 helping me understand that.

4 MS. PIERCE: I just want to say a couple
5 of other things. When this process started I
6 spoke to some staff from the California Energy
7 Commission, and we stated that people in Bayview/
8 Hunter's Point would take their lead from the
9 residents of Potrero Hill on this issue.

10 That we would support the Potrero Hill
11 residents if, in fact, they felt that the proposal
12 was a good proposal.

13 We waited to see where the Potrero
14 residents were going. And I believe that by the
15 time these hearings -- the workshops started,
16 where we were headed was looking at agreeing to
17 some expansion, but we wanted to be sure it was
18 clean.

19 We still have not received evidence tat
20 this is the cleanest possible proposal that could
21 be made.

22 We also feel that we have not been heard
23 by staff. And unless this process becomes a more
24 equitable process, you are forcing all of us to
25 move toward what is already starting, which is the

1 process of organizing a civil disobedience action
2 to insure that when you approve this that we will
3 shut that down by not letting them come in and do
4 the construction. We will put our bodies out
5 there, okay.

6 It did not have to get to this. It got
7 to this because we're not being heard. All we
8 wanted was to be heard. All we want is assurances
9 that we're getting the cleanest possible.

10 There's no question internationally
11 Bayview/Hunter's Point is recognized as an
12 environmental justice community. There's no
13 question about that. Yet we heard from staff that
14 they could not find that there was an
15 environmental community that would be affected.
16 That was the finding.

17 And therefore there was no further
18 analysis except the air quality analysis. The air
19 quality analysis did not take into consideration
20 the environmental justice implications, et cetera.
21 Okay, you've heard a lot about that.

22 But because we have made a good faith
23 effort to bring these issues forward, and to ask
24 that they be included in the staff's analysis, and
25 in fact, they have been ignored, as far as we can

1 see, that we expect that the Commission is going
2 to move forward and approve this.

3 Which means that we have to take other
4 means. It should not get to this. And you
5 Commissioners can, through this very process this
6 evening, direct staff to provide a sufficient
7 document to insure that we are aware of whether or
8 not we are getting the best technology and the
9 cleanest plant.

10 We don't need another plant, but that's
11 for another hearing, okay. But you can insure
12 that the hearing that is held on this will be a
13 hearing that considers all of the evidence, and
14 all of the ramifications.

15 And finally, I have to say that I said
16 this to staff at the last meeting we had, and I'm
17 going to say it here tonight, both to staff and to
18 the Commissioners who are here, there's a clear
19 bias in favor of an additional power plant or
20 expansion of the existing power plant. There's a
21 clear bias.

22 Tonight we heard from a Commissioner
23 that it would be good for us to have a new plant
24 because it would be cleaner.

25 We expect that what you, the judges, as

1 you have termed yourself, are going to do is going
2 to come in with no bias. And, in fact, you've
3 already shown us that there is a bias.

4 So, again, you leave us no recourse, by
5 lecturing us and saying a new plant is better, is
6 a clear indication of bias.

7 Thank you.

8 (Applause.)

9 PRESIDING MEMBER PERNELL: Okay, we've
10 got one other speaker, but I need to comment on
11 this just for the record. Because there's some
12 misconceptions about whether or not this is an
13 inclusionary process.

14 And to stand here and say that you're
15 not going to be heard when we're sitting here
16 hearing you, I think, is a misrepresentation of
17 what this Committee is about.

18 We're sitting here and we're going to be
19 here until we get kicked out, which is going to be
20 soon, but we want -- you will be heard. And
21 you're being heard on record.

22 As far as any bias, there isn't any bias
23 from this Committee whatsoever. We're here to
24 listen, to learn. I wasn't here for the EJ
25 workshop, but I can assure you that some of those

1 issues will be addressed in the staff analysis.

2 So I don't want people to leave here
3 thinking that we're trying to shove something down
4 your throat, we won't listen to anything you have
5 to say, because that's not correct.

6 And we've spent a lot of time, between
7 staff and this Commission, I've been here twice,
8 and listened. And the community has come out.
9 And I would applaud you for that, because we need
10 to hear from you.

11 But to misrepresent what this Committee
12 is about by saying we don't want to hear from you,
13 and we're biased, and to shout at members of the
14 Committee or staff or anybody else up here, I
15 think is a mis-justice and injustice for what
16 we're trying to do, which is hear the facts and
17 your opinions.

18 I mean you're emotional about this, as
19 well you should be. This is your community. You
20 love this place. And we're not trying to do
21 anything that would misrepresent community
22 residents. But you have to be fair about the fact
23 that we're not trying to squeeze you out of the
24 process, we're not trying to pass any laws to
25 prevent the public from testifying, or any of

1 that.

2 What we want to do is get information
3 from the applicant in terms of a schedule so we
4 can make sure we get through this process.
5 Because once we're in this process, the only way
6 this process will stop is if the applicant
7 withdraws. That's it.

8 (Parties speaking simultaneously.)

9 PRESIDING MEMBER PERNELL: Okay, who do
10 we have next.

11 HEARING OFFICER VALKOSKY: Okay, okay,
12 Ms. Williams, that's really uncalled for.

13 (Parties speaking simultaneously.)

14 HEARING OFFICER VALKOSKY: The last
15 commenter of the evening, Joanna, I'm sorry,
16 Moore? Monroe? I'm not sure. Intern at CBE.

17 MS. MONK: That's Joanna Monk. I
18 apologize for my handwriting, M-o-n-k is the last
19 name.

20 HEARING OFFICER VALKOSKY: M-o-n-k,
21 thank you.

22 MS. MONK: Yeah, I'm an Intern at
23 Communities for a Better Environment. And I just
24 want to give something to Chairman Keese. Thank
25 you for coming out this evening, thank you,

1 Commissioner Pernell, as well. It's great that
2 you get to hear people speak.

3 I have for you some post cards here from
4 about 150 people in local and regional communities
5 who are opposed to this. And they're asking for
6 your support in opposing this project.

7 So I'm going to give you these. You'll
8 be receiving a whole bunch more in the mail. So,
9 please.

10 (Applause.)

11 PRESIDING MEMBER PERNELL: Okay. Is
12 there anyone else that wants to come before this
13 Committee tonight?

14 And just a final note, and that is again
15 this process, I know it's a little -- can be
16 intimidating at times, but we're here to listen --

17 MS. GEORGE: Especially when you call
18 your goons out.

19 PRESIDING MEMBER PERNELL: -- we're here
20 to listen, and gather the facts. The case will be
21 decided on the facts, and we'll have a record of
22 that, so the next time we're here, the Committee's
23 here, it will actually be a hearing dealing with
24 substantive issues that you're all concerned
25 about.

1 And again, the best way to influence
2 this Committee is to present your views and any
3 documentation that goes with those views. That is
4 the best way in which to influence this
5 Committee. The other stuff doesn't move me at all.

6 Commissioner Keese, do you have any --
7 okay, if there's nothing else to come --
8 applicant, anything --

9 MR. CARROLL: No.

10 PRESIDING MEMBER PERNELL: -- in
11 closing? Staff, anything in closing? The City of
12 San Francisco? Intervenors, anything?

13 Hearing none, this meeting is adjourned.
14 (Whereupon, at 10:06 p.m., the Committee
15 Conference was concluded.)

16 --o0o--

17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Conference; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said conference, nor in any way interested in outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of August, 2001.

JAMES RAMOS

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

•